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THE
T R I A L
OF THE
REV. THOMAS FYSHE PALMER,
BEFORE THE
CIRCUIT COURT OF JUSTICIARY,
Held at PERTH, on the 12th and 13th September, 1793,
ON AN
INDICTMENT
FOR
SEDITIONOUS PRACTICES.

Taken in Court by Mr. RAMSEY, an eminent Short-Hand Writer from London.

WITH AN
A P P E N D I X.

"If, at any time, any dangerous changes were to take place in the English Constitution, the pernicious tendency of which, the people were not able at first to discover, restriction on the Liberty of the Press, and on the Power of Juries, will give them the first information."

J. L. Delolme.

"Having expressly allowed to the people a liberty to enquire into the conduct of Government, and to endeavour to correct it, we shall need neither State Prisons, nor secret informers."

Excellence of the English Constitution.

EDINBURGH;

PRINTED for W. SKIRVING, and sold at his House, opposite the foot of Old Assembly-Close, Cowgate; by J. ROBERTSON, No. 4, Horse-wynd; W. BERRY, No. 39, South Bridge; R. GALLOWAY, Glasgow; E. LESLIE, Dundee; G. M'FARLANE, Perth; J. RIDGEWAY, H. D. SYMONDS, and MARSON & RAMSEY, LONDON.

1793

THE

T R I A L

OF THE

REVENUE AND FINANCE

REPORT

CIRCUIT COURT OF JUSTICE

IN THE DISTRICT OF COLUMBIA

ON

IN DISTRICT

FOR

RECEIPTS

Entered in Stationers Hall.

WIT

F P E N D

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the said Court, at the City of Washington, this 1st day of January, 1882.

JOHN W. HARRIS, Clerk of the Court.

P R E F A C E.

FROM the situation of Mr. P——, confined in the jail of P——, it was not in his power to superintend this impression of the account of his trial. My duty to the Public, and my personal regard for that Gentleman, have induced me to take that charge on myself. I have executed it with fidelity. An eminent Short-Hand Writer from London, Mr. Ramsey, attended on that occasion. All that passed is truly recorded.

MAY I be permitted to congratulate the Friends of the People in Scotland, upon the incidents which the late trials have disclosed.—Misfortunes may press hard on individuals, but let us rejoice, that in the great system of the universe, eternal justice constitutes an element.

EDINBURGH, }
Oct. 8, 1793. }

W. SKIRVING.

ADVERTISEMENT.

A MUTILATED account of this trial has been published at Perth; but the Public may rest assured, that the following is a verbatim account as delivered in Court.

INDICTMENT.

GEORGE, &c. WHEREAS, it is humbly meant and complained to us by our right trusty **ROBERT DUNDAS, Esq;** of Arncliffe, our Advocate for our interest, upon **THOMAS FISCHER PALMER,** Clergyman, sometime residing in Dundee, and commonly designed Unitarian Minister: **THAT,** by the laws of this and of every other well governed realm, the wickedly and feloniously **WRITING** or **PRINTING**, or the causing to be **WRITTEN** and **PRINTED**, any seditious or inflammatory writing, calculated to produce a spirit of discontent in the minds of the people against the present happy Constitution and Government of this Country, and to rouse them up to acts of outrage and violence, by insidiously calumniating and misrepresenting the measures of Government, and falsely and seditiously justifying and vindicating the enemies of our country, with whom we are at open war: **AS ALSO** the wickedly and feloniously **DISTRIBUTING** and **CIRCULATING**, or the **CAUSING** to be distributed and circulated, any such seditious and inflammatory writing, are crimes of an heinous nature, dangerous to the public peace, and severely punishable: **YET TRUE**

IT IS, AND OF VERITY, That the said Thomas Fische Palmer, above complained upon, is guilty actor or art and part, of all and each, or one or other of the foresaid crimes; IN SO FAR AS, sometime during the month of July 1793, or of June preceding, or of August following, the said Thomas Fische Palmer, having been present at a Meeting held at Dundee, and county of Forfar, which Meeting denominated itself, "A Society of the Friends of Liberty," or bore some such name, and of which meeting or society, the said Thomas Fische Palmer is or was a Member; he did then and there put into the hands of George Mealmaker, weaver in Dundee, a manuscript or writing, of a wicked and seditious import, in the form of an Address to *their Friends and Fellow Citizens*; which manuscript or writing was sometime during the months aforesaid, at Dundee aforesaid, or at some other place to the Public Prosecutor unknown, wickedly and feloniously written or composed by the said Thomas Fische Palmer, or by him caused to be composed or written; and which manuscript or writing, after it had undergone several alterations, suggested by the foresaid meeting, was, by desire of the said meeting, again put into the hands of the said Thomas Fische Palmer, in order, that it might, by his means, be published, printed, and circulated. And the said Thomas Fische Palmer did thereafter print, or at least did wickedly and feloniously, sometime during the months aforesaid, cause to be printed at Edinburgh, or somewhere else to the Public Prosecutor unknown, the said seditious and inflammatory writing, whereof the title and tenor follows:

DUNDEE, Benevolent Meeting House, July 1793.

At a GENERAL MEETING of the FRIENDS of LIBERTY, they unanimously resolved to publish the following ADDRESS to their Fellow Citizens.

Friends and Fellow Citizens,

' You, who by your loyal and steady conduct, in these days of adversity, have shown that you are worthy of, at least, some small portion of liberty, unto you we address our language and tell our fears.

' In spite of the virulent scandal, or malicious efforts of the people's enemies, we will tell you whole truths, they are of a kind to alarm and arouse you out of your lethargy. That portion of liberty you once enjoyed is fast setting, we fear, in the darkness of despotism and tyranny! Too soon, perhaps, you who were the world's envy, as possessed of some small portion of liberty, will be sunk in the depth of slavery and misery, if you prevent it not by your well timed efforts.

' Is not every new day adding a new link to our chains? is not the executive branch daily seizing new, unprecedented, and unwarrantable powers? Has not the House of Commons (your only security from the evils of tyranny and aristocracy) joined the coalition against you. Is the election of its members either fair, free, or frequent? Is not its independence gone, while it is made up of pensions and placemen?

' We have done our duty, and are determined to keep our posts, ever ready to assert our just rights and privileges as men, the chief of which we ac-

‘ count the right of universal suffrage, in the choice
 ‘ of those who serve in the Commons’ House of Par-
 ‘ liament, and a frequent renewal of such power.

‘ We are not deterred or disappointed by the deci-
 ‘ sion of the House of Commons concerning our Pe-
 ‘ tition. It is a question we did not expect (though
 ‘ founded on truth and reason) would be supported,
 ‘ by superior numbers.—Far from being discouraged
 ‘ we are more and more convinced that nothing can
 ‘ save this nation from ruin, and give to the people
 ‘ that happiness which they have a right to look for
 ‘ under Government, but a Reform in the House of
 ‘ Commons, founded upon the eternal basis of justice,
 ‘ fair, free, and equal.

‘ *Fellow citizens,*

‘ The time is now come, when you must either
 ‘ gather round the fabric of Liberty to support it, or,
 ‘ to your eternal infamy, let it fall to the ground, to
 ‘ rise no more, hurling along with it every thing that
 ‘ is valuable and dear to an enlightened people.

‘ You are plunged into a war by a wicked Mi-
 ‘ nistry and a compliant Parliament, who seem care-
 ‘ less and unconcerned for your interest, the end and
 ‘ design of which is almost too horrid to relate, the
 ‘ destruction of A WHOLE PEOPLE MERELY
 ‘ BECAUSE THEY WILL BE FREE.

‘ By it your commerce is sore cramped and al-
 ‘ most ruined. Thousands and ten thousands of
 ‘ your fellow citizens, from being in a state of prof-
 ‘ perity, are reduced to a state of poverty, misery,
 ‘ and wretchedness.—A list of bankruptcies, une-
 ‘ qualed in any former times, forms a part in the re-

‘ tinue of this Quixottic expedition; your taxes, great
 ‘ and burthensome as they are, must soon be greatly
 ‘ augmented; your treasure is wasting fast; the blood
 ‘ of your brethren is pouring out, and all this to form
 ‘ chains for a free people, and eventually to rivet
 ‘ them forever on yourselves.

‘ To the loss of the invaluable rights and privi-
 ‘ leges which our fathers enjoyed, we impute this
 ‘ barbarous and calamitous war, our ruinous and
 ‘ still growing taxation, and all the miseries and
 ‘ oppressions which we labour under.

‘ *Fellow Citizens,*

‘ The friends of liberty call upon you, by all
 ‘ that is dear and worthy of possessing as men; by
 ‘ your own oppressions; by the miseries and sorrows
 ‘ of your suffering brethren; by all that you dread;
 ‘ by the sweet remembrance of your patriotic ances-
 ‘ tors; and by all that your posterity have a right to
 ‘ expect from you,—to join us in our exertions for the
 ‘ preservation of our perishing liberty, and the reco-
 ‘ very of our long lost rights.’

FURTHER, the said Thomas Fische Palmer did, some time during the months of June or July aforesaid, wickedly and feloniously distribute and circulate, or cause to be distributed or circulated, in Dundee, Edinburgh, and elsewhere, a number of copies of the said seditious and inflammatory writing, printed as aforesaid. PARTICULARLY, the said Thomas Fische Palmer did, sometime in the month of July aforesaid, transmit, or cause to be transmitted or delivered, to William Skirving of Strathruddie,

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residing in Edinburgh, 100 copies, or thereby, of the said seditious and inflammatory writing, to be by him distributed and circulated; and which accordingly, or the greatest part thereof, were by him distributed and circulated. AS ALSO, the said Thomas Fische Palmer did, sometime in the month of July aforesaid, deliver to each of Edward Leslie and Robert Miller, both stationers and booksellers in Dundee, a number or parcel of the said seditious and inflammatory writings, to be by them distributed and circulated. AS ALSO, the said Thomas Fische Palmer did, on the 20th of July aforesaid, or, upon one or other of the days of that month, transmit to James Smiton wright in Newburgh, and county of Fife, 20 copies, or thereby, of the said seditious writing, to be by him distributed and circulated; and which accordingly were distributed and circulated by the said James Smiton among several persons in the neighbourhood. AND the said Thomas Fische Palmer having, upon the 2d and 3d days of August 1793, been brought before Harry Davidson, Esq; Sherriff-Substitute of the shire of Edinburgh, he did in his presence emit a declaration, which the said Thomas Fische Palmer having refused to subscribe, was signed by the said Harry Davidson, WHICH declaration, together with seven copies of the above mentioned seditious and inflammatory writing, whereof three of them attested on the back by the signature of the said Harry Davidson and others; two of them so attested by Alexander Riddoch, Esq; Provost of Dundee, and others; another of them so attested by Thomas Horburgh, Sheriff-Substitute of Fife, and others; and

another copy of them attested on the back by William Baine, servant to James M'Duff shoemaker at Bridge of Turret, and others; together with a manuscript copy of the said seditious writing, attested by the said Harry Davidson, Alexander Riddoch, and others: AS ALSO, two pieces, or parts, of two letters, wrote by the said Thomas Fische Palmer, and found in the possession of Alexander Morrin, grocer and spirit dealer in Edinburgh, and attested by the said Alexander Morrin, Harry Davidson, and others; together with the scroll of a letter, seemingly addressed to the said Thomas Fische Palmer by the said Alexander Morrin, and found in the custody of the said Alexander Morrin, and attested by his subscription and that of the said Harry Davidson aforesaid; together with three other letters, one dated the 3d of July 1793, signed with the initials of T. F. P. and addressed to 'Mr. Ellis, at James Ellis's staymaker, Chapel 'Shade, Dundee,' attested by the signature of the said Alexander Riddoch, and others; another, dated 'Dundee, July 9. 1793,' signed 'T. F. Palmer,' and addressed 'to Mr. Skirving, opposite Old Assembly 'Close, Cowgate;' and another, dated 20th July 1793, signed T. F. Palmer, but without any address, and beginning 'My dear Friend;' which two last letters above mentioned are respectively attested by the signature of the said Harry Davidson, and others; as also, a letter, signed James Ellis, dated Paisley, March 18, and addressed to 'James Ellis staymaker, above St. Francis's Well, Dundee;' which letter is attested by the signatures of Thomas Farquharson and William Moncrieff, together with a book, attested by the subscription of William Airth,

weaver in Dundee, will all be used in evidence against the said Thomas Fische Palmer; and will, for that purpose, be lodged in due time with the clerk of the Circuit Court of Justiciary, before which he is to be tried, that he may have an opportunity of seeing the same. **AT LEAST**, times and places aforesaid, the said seditious and inflammatory writing was wickedly and feloniously **COMPOSED** and **PRINTED**, or caused to be composed and printed; as also, wickedly and feloniously **DISTRIBUTED** and **CIRCULATED**, or caused to be distributed and circulated, in manner aforesaid; and the said Thomas Fische Palmer, above complained upon, is guilty actor, or art and part, of all, and each, or one, or other of the aforesaid crimes. **ALL WHICH**, or part thereof, being found proven, by the verdict of an assize, before our Lord Justice General, Lord Justice Clerk, and Lords Commissioners of Justiciary, in a Circuit Court of Justiciary to be holden by them, or any one or more of their number, in the criminal Court-house, of Perth, the 12th September next to come, the said Thomas Fische Palmer **OUGHT** to be punished with the pains of law, to deter others from committing the like crimes in all time coming. **OUR WILL IS**, &c.

LIST OF WITNESSES.

1. James Mathew weaver in Dundee, and at present or lately employed in keeping a shop belonging to Jobson, Miller, and Company, cotton-manufacturers in Dundee.
2. William Moncrieff, one of the town-officers in Dundee.
3. James Yeamen, baker at Scouring-Burn, near Dundee.
4. William Stewart weaver in Dundee.
5. David Rattray weaver in Hilltoun of Dundee.
6. George Mealmaker weaver in Dundee.
7. Thomas Ivory watchmaker in Dundee.
8. Mr. Thomas Donaldson minister of the gospel at Dundee.
9. Edward Leslie stationer and bookseller in Dundee.
10. Robert Miller stationer and bookseller in Dundee.
11. Thomas Colvile printer in Dundee.
12. William Airth weaver in Dundee.
13. James Ellis cotton-spinner in Glasgow, at present residing in the house of the said Thomas Fische Palmer.
14. James Ellis staymaker in Dundee.
15. George M'Intosh, clerk to Hugh Handyside merchant in Edinburgh.
16. William Middleton sheriff-officer in Edinburgh.
17. Alexander Morrin grocer and spirit-dealer in Edinburgh.
18. John Morrin printer in Edinburgh.

19. William Skirving of Strathruddie, residing in Edinburgh.
20. Alexander Aitchison student of physick, residing in Canongate of Edinburgh.
21. Alexander Scott printer in Edinburgh.
22. James Smiton wright in Newburgh, in the parish of Newburgh, and shire of Fife.
23. James Fisher schoolmaster at Newburgh aforesaid.
24. John Harroway innkeeper at Newburgh aforesaid.
25. Harry Davidson, Esq; Sherriff-substitute of the county of Edinburgh.
26. Joseph Mack writer in Edinburgh.
27. Alexander Riddoch, Esq; provost of Dundee.
28. William Scott procurator-fiscal of the county of Edinburgh.
29. James M'Duff shoemaker at Bridge of Turret, in the parish of Monyvaird, and county of Perth.
30. William Bain servant to the said James M'Duff.

LIST OF ASSIZE.

- Francis M'Nab of M'Nab
 Charles Campbell of Lochdochart
 Hope Stewart of Ballechin
 Charles Grant of Kinnaird
 5 Lieutenant Adam Stewart of Cluny
 Robert Stewart of Clochfoldich
 John Stewart of Croffmount
 James Stewart of Derculich
 Alexander Fergusson of Balyoukan
 10 William Stewart writer in Perth
 James Morison merchant there
 Thomas Sandeman merchant there
 Patrick Stewart writer in Dunkeld
 Daniel Stewart writer there
 15 John Fisher writer there
 Thomas Kinloch of Cairn
 David Laird of Strathmartine
 Hercules Taylor, Esq; Montrose
 Alexander Ferrier of Kintrocket
 20 John Duncan of Rosebank
 David Anderson of Balgay
 John Ouchterlony, Esq; Montrose
 Alexander Lamond merchant in Montrose
 George Mackie merchant in Montrose
 25 David Cook merchant in Dundee
 Robert Miller bookseller there
 William Robertson, junior, merchant in Arbroath
 William Miln merchant there
 Gilbert Pennycook merchant in Brechin
 30 John Smith, junior, merchant there

- The Honourable Robert Lindsay of Leuchars
 Col. John Thomson of Charleton
 James Calderwood Durham of Largo.
 James Lumsdain of Innergelly
 35 Alexander Duncan of Castlefield
 Patrick Lindsay of Coats
 Andrew Johnston younger of Rennyhill
 Alexander Cunningham of Pittharthie
 Alexander Wood merchant in Elie
 40 James Chalmers merchant there
 John Fair writer in Colinsburgh
 Andrew Whyte writer in Crail
 Cathcart Dempster merchant in St. Andrews
 Robert Key merchant there
 45 Alexander Bonthron of Edensgrove.

ROB. M'QUEEN.

W^M. NAIRNE.

ALEX. ABERCROMBY.

THE
T R I A L
OF THE
REV. MR. THOMAS FYSHE PALMER,
IN THE

CIRCUIT COURT OF JUSTICIARY, HELD AT PERTH ON

Thursday, September 12, 1793.

The Court met at eight o'clock in the morning.

MR. BURNETT, (Advocate Depute for the Crown)---The next case I mean to bring before your Lordships is that of Thomas Fyshe Palmer, for seditious practices.

MR. HAGGART (Counsel for the Pannel)---My Lords, the Pannel at the bar is Thomas Fyshe Palmer, but the indictment does not apply to that gentleman.

LORD ESKGROVE---We must hear first, whether he pleads guilty, or not guilty.

MR. HAGGART---He is not the person, my Lord.

LORD ABERCROMBIE---In point of form the indictment must be read first.

[The Indictment read.]

LORD ESKGROVE---Are you guilty of the crimes laid to your charge in this indictment, or not guilty?

MR. PALMER---I am not the person named in the indictment.

LORD ESKGROVE---And that you plead.

MR. PALMER---Yes, my Lord.

Mr. HAGGART—My Lords, the case now before your Lordships is of the last importance; it directly relates to the Liberty of the Press, that most invaluable privilege of a British Subject. I wish the part allotted to me in this case had been in better hands: circumscribed in point of time; from my situation, not having recourse to many authorities, nothing, but a sense of professional duty, could have induced me to make my appearance now before your Lordships. But, my Lords, knowing that I shall receive indulgence from the Court, and expecting, in a case of the magnitude of which the present is, assistance from the Court itself, I come forward, and with confidence, to submit to your Lordships, that, if certain preliminary objections which I shall state are over-ruled by the Court, I shall make out, that the libel is not relevant. Now my Lords, the preliminary objections which occur in this case are two; In the *first* place, to the name, the indictment is laid against the Rev. Thomas *Fische* Palmer. Now, my Lords, it is very true that there is in the county of Essex a respectable family of that name, but from that family the Pannel has not the honour to descend. I can prove by ample testimony, that his name is *Fyshe* Palmer; differing in no less than two letters, in the name in the indictment, from that of the Pannel. He is called in the indictment *Fische*; the Pannel's name is *Fyshe*, differing, your Lordships see, in no less than two letters from the name that is in this indictment. Your Lordships will observe that, in the middle of the name, there are the letters *sc*.

LORD ESKGROVE—That is, *c* is brought in which ought not to be there, and there is *i* in the place of the *y*.

Mr. HAGGART—Now, my Lords, if there be any one thing more important than another, in the case of a criminal indictment, it is the name of the Pannel. And, my Lords, a variety of decisions have been pronounced by your Lordships, in other cases of less importance than this, where objections of a very trifling nature have been sustained; for instance, in the noted case of Deacon Brodie there was an objection sustained to a witness; she was designed *Hibbert*, instead of *Hebbert*; there, there was only one letter different; but in the case even of a witness, which I apprehend to be of less importance than this, that objection was unanimously sustained. I have a variety of other cases which I

shall beg leave to mention to your Lordships; and it is from a source that I am sure will not be disputed by my brother on the other side; it comes from the fountain where, last session, he and I, under a most respectable professor, were endeavouring to imbibe the principles of criminal law.

Now, my Lords, in a Case which occurred before the High Court of Justiciary, upon the 29th of August 1791, there was a person adduced of the name of Law, but it was objected, that there was there a mistake in the name.

LORD ESKGROVE—Was it in the name of a witness, or a Pannel.

Mr. HAGGART—It was the name of a witness, in the case of Smith; the person there was designed *Law*, instead of *Low*; there, there was a difference of but one letter, here there is a difference of two letters. And in a case of the name of Wilson, the same year, there was this objection stated, that the witness was designed *Aderfon*, instead of *Anderson*, one letter being omitted; but the objection was likewise there sustained.

Now, my Lords, these are four of a variety of cases, which might be referred to. But, my Lords, in a case of this kind, I don't wish to take up the time of the Court. I would mention, however, that the regulation of 1672 can have no meaning, unless it be, that the proper names, and the proper designations be given. But to go to the most remote period of our history, to the first appearance of a criminal indictment, to the 80th chapter of the , there it is required, that all the requisites of a criminal libel shall be answered. But this I must insist, that the indictment, bearing the name of Fische Palmer, as the Pannel's name, is not (as is attested by a certificate under the hands of William Steel Maxey, of Northill, Bedfordshire, taken out of the Parish Register,) the name of the Pannel, but that his name differs in two letters, as I have already mentioned. But, in addition to this certificate of the Pannel's name, I have to produce to your Lordships, authority of a different kind, if written authority is not sufficient.—Mr. Palmer is a man of letters, and well known in the literary world as an author, and I have one of his productions to produce in Court; but if this should not be deemed proper evidence, which I submit to your Lordships is the regular and proper evidence, I understand likewise, that the

name in this indictment, is the name of a respectable, and honourable family in Essex, and that the arms of that family, and the arms of the family of my Client are perfectly different.

Mr. BURNETT.—Is Fyshe a part of his Christian name, or of his surname ?

Mr. HAGGART.—I don't answer any questions of that sort.

Lord ESKGROVE.—Why not ?

Mr. HAGGART.—I submit to your Lordship; it is not incumbent upon me to give any information of that kind ; the learned gentleman himself ought to be able to answer that question.

But, my Lords, I shall mention another objection before I sit down, which is insurmountable ; for, next to that I have already stated, it is an indispensable requisite, that the Pannel should be served with a true copy of the libel, as laid down by the regulation in 1672.

My Lords, I hold in my hand the indictment served upon the Pannel, and in one part there is a total deviation in words, and in sense. Now I shall mention to your Lordship what that is, if your Lordships will be so good as desire the Clerk to read the first paragraph of the Hand Bill.

Lord ESKGROVE.—If there are any witnesses here for, or against this gentleman, they are desired instantly to come into the place appointed for them ; and if they remain here after this notice they will be committed to prison ; and they will have time to consider of it, before they get out of that prison.

[*The Clerk read*]

‘ Friends and Fellow Citizens,—you, who by your loyal and steady conduct in these days of adversity, have shewn that you are worthy of at least some small portion of liberty, unto you we address your language, and tell our fears.’

Mr. HAGGART.—Now my Lords, in the copy served upon the Pannel, it is unto you we address *your* language, totally different in words, in sense, and in every difference that I can possibly conceive. If they were their own words that they were addressing to them, this Pannel could not have been brought to your Lordships’ bar for addressing his words ; but it is unnecessary to illustrate,—the thing itself is so obvious to any body who under-

stands the English language, or the language of Scotland, that I am sure it will not be argued on the other side, that there is not a pointed, a clear, and indisputable variation. And, my Lords, upon that ground, I do likewise submit to your Lordships, that it is impossible that this indictment, in the first place, can apply to the Pannel at the bar; or, if that objection should be got over, that that impropriety, that capital mistake in the word *your* instead of *our*, ought undoubtedly to cast this indictment.

Mr. MACCONOCHIE.—My Lords, it does not appear to me, that the objection deserves any serious consideration; the learned Gentleman seems, with all his ability, incapable of straining his voice to the difference of pronunciation of the name, and, as far as my powers of pronunciation go, I cannot find any possibility of making a distinction; they appear to be pronounced the same. I don't suppose the Public Prosecutor could have an opportunity of knowing, nor had he any occasion to enquire into what was the particular mode of spelling the name of that Gentleman. And it would be a strange thing, if the public justice of the country was to be disappointed, merely because a Gentleman chose to spell his name in a particular way.

As to the cases that have been cited, my Lords, I think it is hardly necessary to make any observations.

In the first case cited, they were two different names; Low and Law are as different names as can be conceived of; and when the Pannel was desired to enquire after a witness of the name of Law, he was put upon a false scent. I should therefore suppose that, in the case of a witness, there can be no doubt but that was an improper designation; and, in the case of a Pannel, the name being perfectly different would be a sufficient ground for the objection being sustained; but where is the difference here?—There seems none.

With respect to the other objection, suppose the Prosecutor was to pass from that part of the charge entirely,—I suppose that is not the passage in the indictment upon which he wholly relies; but they do address language, which language is circulated, and forms the gist of the indictment; we have no such thing in our law as the doctrine of Joefailles, which the Gentleman, I dare say, is very learned in, but it seems totally different from the spirit of our law, which aims at the substance.

Mr. BURNETT.—My Lords, I have only to add to what has been now so properly stated, that the objection, which has just been urged by the Counsel for the Pannel, resolves into this, not that there is any error in the designation of this man, not that there is any doubt to whom this indictment applies, but the objection that has been urged is, That there is an error in two letters in the Christian name of this Pannel. It happens that the Prosecutor has spelt it *Fyshe*, in place of what Mr. Palmer now chuses to say it ought to have been. In what situation does this Gentleman appear at the bar? There are productions here, which I shall have occasion to state to the Jury as written evidence, in which he has written his name T. F. Palmer. This Gentleman, so long as he has been in this country, has not favoured us with spelling his name; he pleads that we have not spelt his name right; it was utterly impossible for the Prosecutor to know what was his Christian name when he wrote it in that manner. Had we erred in the proper name of this man, had we erred in his designation, then it would not appear to whom the indictment applies; but this is an error in a small addition which he has chosen to give to the name of his family. I understand his proper name and family is that of Palmer. Now suppose this Gentleman's name had been *Stewart*, some spell it without a *w*, and some spell it with *w*; suppose his name had been *Stewart*, and he had been used to spell his name with the *w*, I submit to your Lordships, it would not have been a valid objection to this indictment, that it was spelt *Stuart*; but, my Lords, *Fyshe* is the mere Christian name of this man; it is not his proper name, it is not the name of his family. And, my Lords, there is also the name of *Smith*, some spell it with a *y*, and some spell it with an *i*.

My Lords, another objection is, That the record copy of the indictment differs from that served upon the Pannel. Had the record copy charged him with *murder*, and had he been served with an indictment charging him with *sedition*, here would have been a dissonance that your Lordships must have given effect to.

Under these circumstances I submit, your Lordships cannot listen to the objections, there being no material deviation; and though, by the law of England, which does very often give ef-

fect to matters of form, and often leaves out the substantial part of an indictment of this kind, though it might be sustained there, yet the practice of this country does not follow that of any other country.

Mr. HAGGART.—My Lords, the answers which have been made by the Council for the Crown, are those answers which I expected; as they had no sufficient answer to give me upon principle, they took the liberty of stating their own opinions, and pretty strongly their own averments, in opposition to my authorities; my authorities stand as they did, their opinions will not alter them.

My Lords, the learned gentleman has said, that Mr. Palmer, in his practice of writing his name, had only written, T. F. Palmer; that is a mistake, and I did not expect it to have been stated, for he must know that, when this gentleman underwent a formal examination, he did spell his name at length, Thomas Fyshe Palmer: In the publication that I hold in my hand, it is spelt in the same way; let them deny that fact if they can.

My Lords, the name of Fyshe is the proper name of his family, and I will tell your Lordships his *ratio*, though I am not bound to tell the Public Prosecutor; I will tell your Lordships, that this gentleman's father was the first who changed his name from *Fyshe* to *Palmer*; so that I do submit to your Lordships my objections stand unconfuted; and, I do trust they will be attended to by your Lordships, in an important case of this kind.

Lord ESKGROVE.—The whole import of this objection, were it founded in the strongest degree, would not avail this gentleman, for it would have no other effect than to postpone his trial fifteen days longer, till there could be got another Indictment; and he would be committed to prison, therefore it is a matter of mere moonshine, whether your Lordship would sustain this objection. With respect to the merits of it, the instances that have been given are certainly applicable to the case of witnesses;—witnesses are brought into court to give evidence for, or against a party, the trial is commenced before they come, and there is no such thing as postponing the trial, if he is not properly brought before the court; and when a man of the name of Thomas is called as a witness, and his designation is James, he is a person not summoned; and the law will not allow a man to volunteer, to

come and give evidence without he is compelled to come; that would be a final decision of the matter, and the trial must go on; therefore, not one of these objections meet the present case, which is that of an alledged error in the name of the person brought before the court, which, if sustained, would only answer the purpose of a few days delay: But even were they cases of the same nature, and were they objections to the Pannel, as well as to witnesses, they would none of them meet the present case. In the case of Brodie's trial, I had the honour to sit upon the bench; there, it was the case of a man whose name was known to all the people there, to be a different name from that which he was designed; and the families were well known to be as distinct as the names and families of any two gentlemen in this court; there was not a man in court who did not know that the family of *Low* and *Law* were different; but if we were to regard such circumstances as these, we should involve judicial proceedings in endless confusion. If a person wrote the name of Stewart as applicable to the office of Steward, and thought it afterwards better to call it Stuart; and an indictment was to come against him by the name of Stewart, and it had been objected to, would it not be a strong answer to shew that the name was formerly Stewart; and we know very often, in many cases, the pronunciation is the same; and this name Fyshe, no man would pronounce it differently, write it in any way, it would still be a Fish. Your Lordship's own Surname is often wrote by persons with a *y* at the end of it, instead of *ie*, and the same with my own name; and yet no man would hesitate to say they meant the same; therefore this objection is not at all applicable to the case; it is written in a pronunciation that denotes the person: He has not produced any man else, who is also a Unitarian Minister, and also sometime residing in Dundee; he has brought no such other person before your Lordship: and if there was any error at all, I must look to the indictment, and I see a variety of writings produced which are all signed T. F. Palmer, I must hold it as full in evidence, that these are his writings, in which Palmer being the principal name, T. F. is sufficient, to be sure; but that don't shew whether it is written with an *i* or a *y*—Here is another circumstance that is remarkable, and that is, that there was a declaration taken before the Sheriff of Edinburgh,

where this gentleman was called to answer questions put to him, and after it was taken down, he thought fit to refuse to sign his name, perhaps with a view to this objection.

Mr. HAGGART.—He was illegally apprehended, my Lord.

Lord ESKGROVE.—It is no sign of innocence when a Pannel refuses to sign his name. Your Lordship knows too, that, under this name of Thomas Fische Palmer, when brought before the Sheriff, he found bail; and if he was not the person, why is he there? He is there to answer to the name of Thomas Fische Palmer, and he acknowledges himself to be the person by coming to this bar; and therefore, my Lord, the gentleman at the bar, if he was dismissed from it, it would only be for a few days. I don't find fault with gentlemen in every case for making objections, far from it; but I am perfectly clear there is nothing in this objection. With respect to the other, it is an error in reciting the publication; in the *first* place, I think it is not relevant in this case; but were it relevant, I should consider it a good deal upon the evidence the gentleman offered to prove their objections, namely, this certificate mendicated from a foreign country, and the publication denying the Godhead of Christ, which this gentleman has put a name to Thomas Fyshe Palmer, and he subscribes at the end T. F. Palmer: Whether that is his publication or not I don't know; he is not impeached here for denying the Godhead of Christ;—but, as to its being produced in proof of a fact of that sort, in a Court of Justice, I say, it is an objection not relevant to the narrative of the facts charged against him, that he wrote and published such and such seditious passages and speeches; but it is said, that there is an error in reciting one of these publications, in saying, the words are, 'You who by your loyal and steady conduct have shewn that you are worthy of at least some small portion of liberty.' Now, I presume the Public Prosecutor, if he founded upon any part of this paragraph, it would be upon what I have now read; for the following is not a very important part, it is 'unto you we address *your* language and tell our fears'—so that it makes it nonsense, for I don't know any man who addresses the language, not of himself, but of another to himself; it is an absurdity.

it would be competent to the gentlemen to say, but they will meet with another thing that will puzzle them even upon that, for it is mentioned, that there are so many copies lodged in the Clerk's hands; and perhaps the error may not appear in those copies. My Lord, I therefore think that, upon the whole, there is as little ground for this objection as for the first.

LORD ABERCROMBIE.—I agree with your Lordship in the observations that your Lordship has made. Had Mr. Palmer been called as a witness upon the trial of another person, and had been called Thomas Fische Palmer, and properly designed a Unitarian Minister, I think it would be no objection to his being received as a witness, though there was the most satisfactory evidence of a disconsonance in spelling the name of Fythe.

With regard to the second objection, it is a mere recital in the indictment of the publication libelled, that does not affect the charge against him in any respect; and more especially, as copies of that publication are referred to in the indictment, I am therefore free to say there is no ground for the objections.

LORD ESKGROVE.—Mr. Palmer, these objections being repelled, I ask you again, Are you guilty, or are you not guilty?

MR. PALMER.—I am not guilty, my Lord.

MR. HAGGART.—My Lords, in what I am further to take the liberty of stating to the Court, I hope I shall meet with the approbation of both your Lordships. I certainly did not mean to state any thing that was not of importance, and if I have erred, it is because I conceived it to be my duty to my client. My Lords, the preceding objections being over-ruled, I now come to the objections which occur to the relevancy of this indictment; and, my Lords, in arguing upon the relevancy, it is necessary to state the facts, as taken for granted, which is labouring under a very great disadvantage; and, if in any case it is so, it is peculiarly so in this, that it should go to trial, when instead of my client being the author of the Hand Bill, he does not bear that character; but, taking the facts as they are stated in this indictment, it comes now to be considered by your Lordships, in the *first* place, Is this indictment accurately and properly laid? *Secondly*, Supposing it to be accurately and properly laid, is the matter contained in that indictment, upon the face of that indictment, is it libellous; yea, or not. If I should succeed in

shewing your Lordships, which I hope I shall do in both these points, in the *first* place, that it is not accurately laid; and, in the *next* place, that the crime laid upon the face of that indictment, supposing the accuracy, cannot infer any punishment, or the pains of law.

My Lords, I need not tell your Lordships what great sticklers for liberty have been our forefathers; though they have sometimes suffered forms to give way, yet in the inestimable trial by Jury they have stuck to minute form; from the most remote period that we can trace in criminal libels, the syllogistic form has been adhered to; and, excepting one solitary trial, where the contrary practice took place, there is no one instance to be found of the form being departed from. Now a syllogism consists, as your Lordships well know, in a major and minor proposition; the major proposition must contain, what is the crime that is meant to be charged; the crime is set forth in the major proposition, and the facts charged in the minor proposition must make out that crime which the major sets forth.

Now, my Lords, allow me to call your Lordships' attention to the major proposition in this indictment; the words of the major proposition are,---'Whereas by the laws of this and every other well governed realm, the wickedly and feloniously WRITING or PRINTING, or the causing to be WRITTEN and PRINTED, any seditious or inflammatory writing, calculated to produce a spirit of discontent in the minds of the people against the present happy Constitution and Government of this Country, and to rouse them up to acts of outrage and violence, by insidiously calumniating and misrepresenting the measures of Government, and falsely and seditiously justifying and vindicating the enemies of our country, with whom we are at open war: AS ALSO, the wickedly and feloniously DISTRIBUTING, and CIRCULATING, or the CAUSING to be distributed and circulated, any such seditious and inflammatory writing, are crimes of an heinous nature, dangerous to the public peace, and severely punishable:'

Now, your Lordships will see where all this is pointed at; it is directly and positively said, that the seditious writings here alluded to, must be calculated to inflame the minds of the people against the happy constitution and government of this country.

Now, allow me to call your Lordships' attention to what is stated in the minor proposition, which I suppose, for I can see nothing else stated, is this *Hand Bill*. It is said, this *Hand Bill* is an attack upon the constitution of this country. My Lords, I deny that there is any attack upon the constitution of this country from the beginning to the end of it. I say, the most perverse imagination cannot discover it. I say, here is a free animadversion upon the measures of government. I say, there is a censure upon the House of Commons. I say, there is a censure upon the executive government; but will I be told, that that is the constitution of this country? I say, that the constitution of this country is founded in King, Lords, and Commons; and I say, there is not in this paper any insinuation tending to overthrow, or insinuating an attack upon the constitution of this country, as so constituted. I will afterwards shew, that the whole intention of this was, to obtain a Parliamentary Reform; but, in the present stage of the argument, it is sufficient for me to say, that the Prosecutor has failed to make out, in the minor proposition, the charge contained in the major; he ought to have stated other facts, whether true or false, in order to have supported the major proposition; he ought to have stated that my client wickedly and seditiously meant to overthrow the House of Lords, but there is nothing of that kind stated; and therefore I submit to your Lordships, that the minor proposition can never apply to the major proposition, which is here set forth.

But my Lords, as I have said, I hold it to be my inherent right, and I will not be contradicted in it by any body; it is the inveterate practice of this country to censure severely the ministry, or any one department of government. These censures will be the means of removing Ministers if they are bad, and will have the same effect with enlightened people, who find that their representatives are not what they ought to be; they will have that opportunity once in seven years.

My Lords, holding, therefore, that such censure is not only, not blameable, but holding, as I do, that it is highly praise-worthy, that it is highly meritorious in any individuals, who think they are injured by any thing under which they labour, to tell their fears and alarms, holding that, I say, to be meritorious; but if, on the contrary, they should exceed just bounds, if they should

go to excess, if they should use unwarrantable language, and it should please the Public Prosecutor to come forward, and say, you are guilty of using improper and unwarrantable expressions; it follows from the very nature of a criminal trial, that it is requisite, that it is necessary that the Pannel be put in possession of those facts, which are meant to be brought home as criminal against him. No man, who sits down to write, can write under the lash of an imprimatur or a licenser; and, though inaccuracy of expression, or too much liberty may be used in one paragraph, yet, if the whole is meant for a laudable purpose, there is no precedent to shew that that has been found fault with; but, when a criminal charge is brought by a Public Prosecutor, it is incumbent upon him, to put the Pannel in a situation to know what he is to answer to; and, if it were necessary to illustrate in this case, what has passed already affords a strong proof of the expediency of the measure. It was said, that the Prosecutor did not mean to found upon that particular passage, and that there is a variety of matter not libellous the Public Prosecutor will cede to me; I say, he was called upon in his duty to state a number of inuendos, as they are called in England, upon which he meant to draw his conclusion, that the publication was libellous; he has totally failed in doing this; and the Pannel is brought to your Lordships' bar upon the whole of that Hand Bill. I say, that that is not a precision, and that is not an accuracy that is agreeable to the usual forms of this court; it is totally averse to the practice in England, as your Lordships well know, and I am not out of rule in applying to the law of England; for the law of England and the law of Scotland is happily now the same in these particulars.

But my Lords, on the supposition that I should be so unfortunate, which I shall not, as to fail in satisfying your Lordships, that there is here not a complete syllogism; and, in the *second* place, although I should have failed in satisfying your Lordships, that the Prosecutors have only given me a paper, containing confessedly matter that is not libellous, intermixed, as he will aver no doubt, with matter that is libellous, and upon which he means to found; I say, though I should be so unfortunate as to have those objections over-ruled, yet my Lords, may I entreat your serious attention to what I am now to state, and that is that, ta-

king the whole scope of this Hand Bill, I take upon me to say, that any person who will deliberately read it will be satisfied in his mind, and he will not hesitate to declare, that the whole scope, and the whole burden of this publication is to recommend another petition to Parliament, as the petition, which had been presented, was refused. I say, my Lords, that there is not only no seditious paragraphs in this paper, but that the whole of it contains in substance a strain of loyalty;—it contains a strain of fidelity and attachment to the constitution; there may be some cant expressions made use of, perhaps, which your Lordships will understand, when you see who is the author of this paper; and I think he could eke together out of newspapers every word that is in that Hand Bill; I think I could eke together whole sentences, and the whole substance seems to be that of a journeyman weaver copying what has been said before by his betters; and if I can satisfy your Lordships, which I hope I shall immediately do, that the whole scope of the Hand Bill is not pointed at the object charged,—or, in the *second* place, that, let the language be ever so firm, ever so pointed, or ever so energetic, it is from the usage of the first authorities of this country from the most remote period; then the consequence will be, that your Lordships must dismiss the libel as not relevant. If your Lordships have a printed copy of this Hand Bill, I hope your Lordships will be able to follow me in the observations I shall have the honour to make.

This Hand Bill sets out with “Friends and Fellow Citizens”—It begins with “At a general meeting of the Friends of Liberty, at the Dundee Berean Meeting House, they unanimously resolve to publish the following Address to their Friends;” and I am entitled to say, that these associations have precedents, and precedents of the higher sort, as I will by and by take the liberty of mentioning to your Lordships. At this meeting-house, a society, consisting of a number of respectable people, of the middling classes of society, of manufacturers, mechanics, and others, was held in the town of Dundee; and the members of this society wished not to be behind others in shewing, that they were zealous for the joint cause, which your Lordships know was a more equal representation in Parliament, (whatever their ideas may be upon that subject, I would not undertake to defend that,) but those people, under the denomination of Burgeesses, are en-

titled to have ideas of what ought to be the representation, as much as I have. I have declared that 100l. is my *minimum*, that I would be satisfied with trying that experiment. I have been endeavouring, for years, to bring down that to be the opinion of the inhabitants of Perthshire; and I hope, though there are perhaps one half of them of opinion, that it ought to continue, I hope there is nothing seditious in that.—‘ You, who by your loyal and steady conduct in these days of adversity, have shewn that you are worthy of at least some small portion of liberty, unto you we address our language, and tell our fears’—My Lords, there is surely nothing seditious in this, but the most loyal and steady attachment; the pen of a Cicero or a Demosthenes might have copied this; and I will shew your Lordships that a great deal of pains has been taken to collect these passages together, and that nothing can be more foreign from sedition than what these people had in view.—‘ In spite of the virulent scandal, or malicious efforts of the people’s enemies, we will tell you whole truths, they are of a kind to alarm and arouse you out of your lethargy. That portion of liberty you once enjoyed is fast setting, we fear, in the darkness of despotism and tyranny! Too soon, perhaps, you who were the world’s envy, as possessors of some small portion of liberty, will be sunk in the depth of slavery and misery, if you prevent it not by your well timed efforts’. There is a chain of fears, they may be real, they may be imaginary, I care not which; but it occurs to these desponding petitioners, who had their petition once refused, that this was a most terrible stroke, and certainly it is a very great disappointment. But is there any thing libellous or seditious in this? Then go to the next paragraph, and you will see upon what these fears are founded; here is another enumeration of grievances, and I will shew your Lordships authorities for it, and I will shew your Lordships the origin of it—‘ Is not every new day adding a new link to our chains? Is not the executive branch daily seizing new, unprecedented and unwarrantable powers? Has not the House of Commons (your only security from the evils of tyranny and aristocracy) joined the Coalition against you? Is the election of its members either fair, free, or frequent? Is not its independence gone while it is made up of pensioners and placemen?’ Now, your Lordships will attend to what is the burden, and what is

the scope, the intention, the clear and undoubted intention of this Hand Bill, and the grounds upon which these alarms, whether just or not, are founded.---‘ We have done our duty, and
 ‘ are determined to keep our posts, ever ready to assert our just
 ‘ rights and privileges as men, the chief of which we account
 ‘ the right of universal suffrage, in the choice of those who serve
 ‘ in the Commons’ House of Parliament, and a frequent renewal
 ‘ of such power.

‘ We are not deterred or disappointed by the decision of the
 ‘ House of Commons concerning our Petition. It is a question
 ‘ we did not expect (though founded on truth and reason) would
 ‘ be supported by superior numbers.---Far from being discouraged’
 From what? By the rejection of their petition, surely,---‘ Far
 ‘ from being discouraged, we are more and more convinced that
 ‘ nothing can save this nation from ruin, and give to the people
 ‘ that happiness which they have a right to look for under Go-
 ‘ vernment, but a Reform in the House of Commons, founded up-
 ‘ on the eternal basis of justice, fair, free, and equal.’ Is this
 a libel upon the constitution? I say, there can be no words better
 adapted; they are forcible, and the occasion required an energy of
 expression to rouse the lethargic to that measure, which it appear-
 ed to this meeting to be proper to take; they might be erroneous,
 but I say, they had a right to hold out these opinions, as well as
 a Locke, or a Hume, or any partizan that ever wrote, or may
 write, or may hereafter exist. I might go over the rest of this
 paragraph, but allow me to cull and select out of this Hand Bill
 those passages which must be the most libellous, if there be any
 libellous matter here, and allow me to call your Lordships’ at-
 tention to the source of this libellous matter, if it is libellous.
 Your Lordships will then attend to the first sentence which I take
 for granted cannot be libellous.---‘ You who by your loyal and
 ‘ steady conduct in these days of adversity, have shown that you
 ‘ are worthy of, at least, some small portion of liberty, unto you
 ‘ we address our language and tell our fears.’ Now, then, follows
 a catalogue of the grievances on which those fears and those ap-
 prehensions are founded. ‘ Is not every new day adding a link to
 ‘ your chains?’ What is the meaning of this? The meaning that
 I understand of it must be the understanding of every body, it is
 the prospect of accumulating taxes. Now in the situation of this

Country we have no reason to expect that they will not be accumulating; the very expensive war we are engaged in will necessarily increase that expence, and every subject of this country is permitted to have an opinion as to the necessity or impropriety of a war; that is the common, and what I take to be the obvious meaning of it; and I dare say the author of this paper, whom your Lordships will have occasion to see before you, will tell you the same.

My Lords, were I to go over language detailed in the newspapers,—but here let me take notice, that I am aware of an objection that will be stated. I have no doubt, that the liberty of speech in the House of Commons is a different thing from making those speeches elsewhere. I am aware of that objection, and my answer to it is a satisfactory one; it is this, that, no doubt, as in the case of the Archbishop of York, who took upon him to say, that the managers in Mr. Hastings's trial acted like a parcel of Marats and Roberespierres, not very decent language for a bishop, but in the House of Commons, when it was argued, they were of opinion that he was protected by his situation, having a seat in the House of Peers, and therefore they did not libel him; but when it came to be canvassed through the detail of newspapers, and it was looked through with an amazing anxiety, from an anxiety that one particular member has, that nothing shall be said that appears to be indecent, as your Lordships well know; but from accurate examination it was found, that these words were not indictable against the printer. Then, my Lords, if the explanation that I have given of these words should be said not to be a just one, why, my Lords, I find in a newspaper a further illustration of it. I don't say it is my opinion of the matter, but I find other people think of chains more grievous than those of accumulating taxes. I will read to your Lordships, from the Star of the 23d February, 1793, and I have a great notion that some of this Hand Bill has been culled from it. Here is the famous speech of a very able and respectable member of the House of Commons, Mr. Michael Angelo Taylor, on the subject of Barracks. He said that, in the present temper and disposition of Parliament, any motion coming from that side of the House, on which he had the honour to sit, no matter how constitutional, he had no doubt would be met with the epithets of seditious, factious, and inflammatory. [See Appendix No. 1.]

My Lords, I have taken the liberty of stating it fully that I may not be charged with quoting partially; and your Lordships will see, in what strong language this gentleman speaks of the unconstitutional measure of raising barracks; that the intention of that is, to separate the standing army from the people, and consequently to bring about and add new chains, or stretch the power of executive government. How far those fears are well or ill founded, I don't give any opinion, but while members of Parliament have judged in this manner, and while these Berean Meeting-house people have had access to newspapers, I say, they have a right to form any speculative opinions that they chuse; and especially, when they see the barracks of the town of Perth re-building, and there is a talk of erecting barracks in Dundee; my Lords, they are certainly entitled, in that language which is used in the House of Commons, and which they see detailed in newspapers, they are entitled to hold the same opinions, and, in their meetings, they are entitled to express them.

Now, my Lords, will your Lordships be pleased to go to the second interrogatory, which I apprehend will likewise be said to contain the most libellous matter? 'Is not the executive branch 'daily seizing new, unprecedented, and unwarrantable powers?' Now, my Lords, What is the meaning of this? Why the obvious meaning of this is, and I will immediately refer to Parliamentary language; but, in the *first* place, I would call your Lordships' recollection, to what has been these hundred years past the language of Parliament. I would go no further back than the famous case of Mr. Dunning, who argued, that the influence of the crown was increasing, had increased, and ought to be diminished; why then, if it had not been an improper power, he would not have argued so long, and at last brought it about; he argued 'that the influence of the Crown was increasing, had increased, and ought to be diminished;' and he was successful in that argument.

But, in addition to this, I may state the source of Mr. Burke's famous Reform Bill; and here I may refer your Lordships to a freedom of speech; that I am sure Mr. Burke may be much better called upon in a libel than any client. He uses such language as this, 'That all kings were idiots, and fond of low company,

'but it is a great measure of policy.' I shall just beg leave to read a very small part of this speech.

'Sir, (addressing himself to the Speaker,) the most serious mischiefs would follow. Kings are naturally lovers of low company.'

LORD ESKGROVE.—Then low company should like kings.

MR. HAGGART. (Continues reading) 'they are so elevated,' &c. [See Appendix, No. 2.]

What is this but saying, kings in general are animals, fond of low company, but you are not to take this as a libellous passage, for which you are to libel him; you are to take it as a part of a great whole, and a most glorious sacrifice did he himself make upon that occasion; the great plan being a reform, and at the same time to support those people about majesty, which he certainly conceived to be necessary for the good of the Monarch; then I say, that cannot be held to be seditious.

My Lords, I will now read to your Lordships the speech of Mr. Wharton in the House of Commons, upon the constitution, and the words that he makes use of in this motion upon the present state of the constitution. I shall not read the whole of it, but he asserted, and said, he risked nothing by the assertion, for no man would be hardy enough to deny it, and he pledged himself to prove it in a Committee of the House, 'That all that was valuable to the people of this country, all the provisions which were stipulated to secure the peace and prosperity, the individual liberty, and the general property of the people of this land, had all been, since the Revolution, taken away—All.'

Here, my Lords is the language of a member of Parliament; and there is a respectable division in the house, of eleven to seventeen. I don't mean to justify that language, but, since that is allowed to circulate, will the Pannel, if I suppose the Pannel was the author of it, will he, while others are not found fault with for using such language, will he be found fault with for using language not a thousand times so much libellous. I submit to your Lordships, there is no libel in the matter; it is a mere speculative opinion, and not an act of resistance; and that is what I understand by it.

But, my Lords, laying that aside, is not the extension of the Excise Laws a topic of conversation? And does any body pre-

tend to justify it? The only justification that can be made of it is, that a great deal of money is raised by it, and that, I am sure, is the only thing that would allow Parliament to continue it; but it must be admitted that it is a grievance, and has all along been considered as an oppression. And now, my Lords, allow me at the same time to mention that which every body sees, in every newspaper, and hears in every public and private company, and what people in their own houses feel; and let me call your attention to the opinion of Blackstone upon the subject; (reads.)

‘ But at the same time, the rigour of the Excise Laws, &c.’
[See Appendix No. 3.]

Its original establishment was in * * *

* * * cyder, and since, it might be added, venders of almost every thing that we eat or drink.

My Lords, with these variety of examples, with the language of Parliament, the authority of Blackstone, and, if it were not detaining your Lordships, I might quote more authorities, for it is the daily practices; but I say, upon Mr. Dunning’s motion, the opinion of Blackstone, and the speeches in the House of Commons, I put it home to your Lordships, whether there is any thing seditious in it? I say, it is language chaste in the extreme, which it is entitled to a Briton to use, and which, I trust, your Lordships will not deprive him of.

Now, my Lords, I will refer your Lordships to the third interrogatory; if I am taking up too much of your Lordships’ time, it is not my blame, the libel being laid so indefinitely, that I am obliged to go through the whole of it.

Lord ABERCROMBIE.—Take your own time.

Mr. HAGGART.—I am much obliged to your Lordship.

Lord ABERCROMBIE.—No, you are not obliged to me, it is your privilege, and your right.

Mr. HAGGART.—My Lords, the third interrogatory is, ‘ Has not the House of Commons (your only security from the evils of tyranny and aristocracy) joined the coalition against you?’

And now, let me call your Lordships’ attention to a petition of the Friends of the People in London to the House of Commons, on the 17th of May last. I shall not read the whole of

it, although the whole of it is much stronger than any thing that is here; but I shall read this paragraph.

‘Your petitioners inform your honourable House, and they are ready to prove it at your bar, that they have the most reasonable grounds to suspect that no less than *one hundred and fifty* of your honourable members owe their elections entirely to the interference of *Peers*; and your petitioners are prepared to shew by legal evidence, that forty *Peers*, in defiance of your resolutions, have possessed themselves of so many burgage tenures, and obtained such an absolute and uncontrouled command in very small boroughs in the kingdom, as to be enabled by their own positive authority to return *eighty-one* of your honourable members.’

My Lords, whether they can prove the fact or not, here is the language, and that language is not looked upon as libellous or seditious. And, my Lords, that freedom of speech, when it comes into the great vehicle of the press, that sacred covering, that the members of the House of Commons have, is taken off, and you must take this either as a matter libellous, or not libellous in itself. My Lords, in addition to this, I may call to your Lordships’ recollection what has been again and again averred, and the only difference is, whether there are seven or fourteen; I mean the dispute of the Nabob of Arcot: the only dispute I have heard is, Whether he has seven or fourteen votes in the House of Commons?—I pray God, that such language as this may be used again and again, till such a monster in the constitution is rooted out. ‘Has not the House of Commons, (your only security from the evils of tyranny and aristocracy,) joined the coalition against you?’ I do submit to your Lordships, that these instances are infinitely stronger to authorise the language here used, and will justify the use which is here made of it.

Now, my Lords, the next query which follows, (and I hope I shall soon exhaust the libellous matter in this paragraph,) is, ‘Is the election of its members either fair, free, or frequent?’ My Lords, if I have made out my other positions, which I submit to your Lordships I have made out, by the speeches in the House of Commons, the authority of Blackstone and others, which I shall presently read. I have shewn, that the election of its members is neither fair, free, nor frequent, if the Peers interfere,

when constitutionally they have no title to interfere, and if the Nabob of Arcot has so many votes in the House of Commons, and when a petition, a respectable petition from London asserts that they will prove it, you must take the fact for granted; it is a monster in the constitution, and I say, nervous language is necessary to be used to get rid of that monster.

Now, your Lordships will allow me, (and I believe I shall have done upon this subject,) to refer you to the Morning Chronicle, that I read above, and likewise to the Gazetteer which is in your Lordships' hand. I shall not trouble your Lordships with repeating them; it is a repetition of the same propositions as in the second and third interrogatory.

The next interrogatory is,---'Is not its independence gone, while it is made up of pensioners and placemen?' If I understand any language, it is just a repetition of what was said before, that it is the fact is indisputable, and that, being the fact, it can be no libel whatever upon the constitution. Without troubling your Lordships with reading any more quotations from newspapers, which I have in my hand, I submit to your Lordships, that talking in the freest manner of the depraved state of the House of Commons is the language of Parliament itself, and will I be told, when that is the fact, that I am not entitled to make use of such language? And I submit to your Lordships, it cannot be held to be libellous, or seditious.

Now, my Lords, to go to where I left off, I shall not trouble your Lordships with going over the whole of it: 'We have done our duty, and are determined to keep our posts, ever ready to assert our just rights and privileges as men, the chief of which we account the right of universal suffrage, in the choice of those who serve in the Commons' House of Parliament, and a frequent renewal of such power.'

Now, my Lords, this your Lordships see, is complaining, that the right of universal suffrage ought to be in the people. As I have already said, I will not take upon me to say what ought to be the state of representation, but this I will take upon me to say, that they have a right to hold opinions, and that they have a right to speak it out; and, as I have mentioned already, they are as much entitled to have an opinion upon that subject, and to petition Parliament, or to express their fears to their members,

just as much as I have. Allow me to state to your Lordships, that upon this point there have been associations at former periods, and the language here I take to be copied from those resolutions. Here is a letter from his Grace the Duke of Richmond to Colonel Sharman of the Irish Volunteers, in which he says, 'The subject of a Parliamentary Reform is that which of all others, in my opinion, most deserves the attention of the public, as I conceive it would include every other advantage which a nation can wish; and I have no hesitation in saying, that from every consideration which I have been able to give to this great question, that for many years has occupied my mind, and from every day's experience to the present hour, I am more and more convinced, that *the restoring the right of voting universally to every man, not incapacitated by nature for want of reason, or by law for the commission of crimes, together with annual elections*, is the only reform that can be effectual and permanent. I am further convinced, that it is the only reform that is practicable.' There is a publication that never was conceived to be a libel, and the language there is more direct and pointed than any thing in the publication now before your Lordships. He goes on to say further, that 'IT IS FROM THE PEOPLE AT LARGE THAT I EXPECT ANY GOOD And I am convinced, that the only way to make them feel that they are really concerned in the business, is to contend for their *full, clear, and indisputable rights of universal representation.*'

Now, my Lords, to go from that to the detail of the meeting itself, which is directly the form of this Berean Meeting-House Society, only it happens to be at the Thatched House Tavern in London. (Reads) 'At a numerous and respectable meeting of members of Parliament, friendly to a constitutional reformation, and of Members of several Committees of Counties and Cities: Present

The Duke of Richmond,
Lord Surrey,
Lord Mahon,
The Lord Mayor,
Sir Watkin Lewes,
Mr. Duncombe,
Sir C. Wray,

The Hon. William Pitt,
The Rev. Mr. Wyvill,
Major Cartwright,
Mr. John Horne Tooke,
Alderman Wilkes,
Doctor Jebb,
&c. &c.

Resolved unanimously, That the motion of the Hon. William Pitt, on the 7th instant, for the appointment of a Committee to enquire into the state of the representation of the people of Great Britain, and to report the same to the House; and also what steps it might be necessary to take, having been defeated by a motion for the order of the day, it is become indispensibly necessary that application should be made to Parliament, by petitions from the collective body of the people, in their respective districts, requesting a substantial reformation of the Commons' House of Parliament.

Resolved unanimously, That this meeting, considering that a general application by the collective body of the people to the House of Commons cannot be made before the close of the present session, is of opinion, that *the sense of the people should be taken at such times as may be convenient during this summer, in order to lay their several petitions before Parliament early in the next session, when their Proposals for a Parliamentary Reformation (without which neither the liberty of the nation can be preserved, nor the permanence of a wise and virtuous administration can be secure)* may receive that ample and mature discussion, which so momentous a question demands.

My Lords, there is the Resolution, and in consequence of that, your Lordships know to what extent associations took place. York took the lead; and I have here the London Mercury for 1780, from which I will read to your Lordships. The county which took the lead in this great effort for political reformation was that of York. [See Appendix, No. 4.]

Now, my Lords, was it ever considered that there was any thing libellous here? No, my Lords, this petition was handed about in every part of the country. People of all descriptions were called forward by these high sounding names, every man was declared to have a right to be free, and to judge for himself.

Now, my Lords, I take it, that the only other paragraph that I need trouble your Lordships with is this, 'You are plunged into a War by a wicked Ministry and a compliant Parliament, who seem careless and unconcerned for your interest, the end and design of which is almost too horrid to relate, the destruction of a whole people, merely because they will be free.'

Now, my Lords, here is a very strong and a very pointed opinion with regard to the measure of the war; but I am sure I can turn up more pointed averments, and stronger language than that which is used here in this passage; and I take it, that no person will now say but that, at least, there are great numbers of that opinion; even the necessity of the war itself occasioned a great dispute in the House of Commons, and after the declaration of the Minister, which your Lordships will allow me to read a single passage from, it is possible that these people might be alarmed, and might have those ideas from the Minister himself.

Now, it certainly will be admitted, that the French Revolution was looked upon as a great æra of liberty, and there was no person whatever, but rejoiced at the idea. It was the language of every person: every body rejoiced at it. That corruptions have crept in, that enormities have taken place, every person must regret; but at the same time they are entitled to have opinions; and many respectable people have thought that the war was pushed too far; and, to go to Mr. Pitt himself, he says, in his speech in the Morning Chronicle, that if he was to divulge the opinions of those with whom he acted, he knew not how he should be able to state

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unless totally subdued, we shall have to contend with to the latest hour of our lives. Why, my Lords, that expression was taken hold of, as your Lordships well know, by a number of persons, that it was meant that we were to interfere in the internal Government of France, and when the question was put, it was denied. Now, my Lords, if the executive government of this country is to go the length of overturning that constitution which was founded upon the basis of freedom, I say, that if any other constitution is set up by the allies, I say it is overturning a constitution that was universally acknowledged to be a good one; and I say, that these Conventioners, these persons meeting at the Bercan-Meeting House in Dundee, have a right to hold the same opinions that the minority in the House of Commons hold; they are entitled to have the opinion, that the war is carried to too great a length; and, may I be permitted to say, it is now carried somewhat further than was at first held out; for

what was first held out was repelling the French from Holland, and after, they were driven to their own territories, it was, to secure some of the frontier towns; but, after these had been secured, we see them going still greater lengths. I am not called upon to give any opinion upon that business; but certainly the language here used may apply to those measures, and they might expect, that it was meant altogether to exterminate the French principles of liberty, and to enforce in its place a government suited to their own will and pleasure, independent of every man in the kingdom of France, and that the whole kingdom was to be legislated for by the combined powers. I say, my Lords, impressed with these ideas, they have made use of such language which, as I have shewn your Lordships, was copied from their superiors.

Now, my Lords, I cannot conceive of any other passage that can be deemed libellous, except one, and that is this, 'A list of bankruptcies, unequalled in any former times, forms a part in the retinue of this Quixottic expedition.' With regard to the facts previously stated, there is ground for saying, that a great variety of bankruptcies have occurred, and that by the war your trade is sore cramped, and almost ruined, and that thousands and ten thousands of your fellow citizens, from being in a state of prosperity, are reduced to a state of poverty, misery, and wretchedness. I believe, my Lords, that is not at all exaggerated, whether from war or not I cannot say, but it is certain that is the fact; and as to the word Quixottic, your Lordships will by and by understand who was the author of it. I suppose he had been reading Don Quixotte before hand, and if he had, I think it was very fair, and he was entitled to tell his friends that he had been reading it; by the word I understand nothing more than romantic; and I say, they were entitled to say so; and I believe most people are now satisfied, that the manner in which that, which was thought a most pious thing, a crusade to the Holy Land, is treated, it would certainly be a very improper libel upon that constitution, if it now existed.

My Lords, the same language is used by Mr. Fox in his letter to his Constituents, and that I should think would be sufficient authority for the use of this expression, if no other were to

be found upon record. If it were necessary, I might follow the Duke of Richmond to Ireland, and refer your Lordships to a speech of Mr. Grattan, who was called the Irish Demosthenes, in which he uses great strength of language; and I shall beg leave to read a single passage from it. [*See Appendix, No. 5.*]

My Lords, In addition to the circulation of Parliamentary Debates, I need not inform your Lordships, that subsidiary to these debates, pamphlets have been circulated on both sides; so much is it the practice, that to support the measures of ministry, or condemn those measures, is the subject of pamphlets. And is it not constantly said, that one paper is ministerial and another an opposition paper? and it has been said in the House of Commons, that, so necessary is this for carrying on the measures of ministry, that they are paid for their trouble; such is the fact, that there are ministerial papers and opposition papers, that there is a traffic of the kind, and that there are also ministerial pamphlets and opposition pamphlets daily, hourly, and by minutes, if possible, circulated; and not only is it the practice in newspapers and in pamphlets, but the greatest constitutional writers that we know of, every book that I have been able to lay my hand upon, from Grotius Puffendorf, the Marquis de Beccaria, and downwards, all say that the people have a right to hold speculative opinions, and that they are entitled to use them in any way or manner they please.

Let me call your Lordship's attention to a foreign writer, but whose book has gone through as many editions as the sermons of a respectable clergyman. I mean to oppose to Dr. Blair the Constitution of England, by Mr. De Lolme; and I believe it has even outshot Dr. Blair. Dr. Blair having gone through but 12 editions, and De Lolme, I believe, having gone through 24 editions, which serves to shew what respect the inhabitants of this country bear to that writer. Upon the subject of libels; he says, 'That though to speak ill of individuals was deserving of reprehension, yet the public acts of government, ought to lie open to public examination, and that it was a service done to the state, to canvass them freely. [*See Serjeant Glynn's Speech for Woodfall in the prosecution against the latter, by the Attorney-General, for publishing Junius's Letter to the King.*']

There the King was attacked as an individual; and he ob-

serves, ' And indeed this extreme security, (speaking of the liberty of the press,) with which every man in England is enabled to communicate his sentiments to the public, and the general concern which matters relative to the government are always sure to create, has wonderfully multiplied all kinds of public papers. Besides those which, being published at the end of every year, month, or week, present to the reader a recapitulation of every thing interesting that may have been done or said during their respective periods, there are several others, which, making their appearance every day, or every other day, communicate to the public, the several measures taken by the government, as well as the different causes of any importance, whether civil or criminal, that occur in the Courts of Justice, and sketches from the speeches either of the Advocates, or the Judges, concerned in the management and decision of them. During the time the Parliament continues sitting, the votes, or resolutions of the House of Commons, are daily published by authority; and the most interesting speeches in both Houses are taken down in short hand, and communicated to the public, in print.

' Lastly, the private anecdotes in the metropolis, and the country, concur also towards filling the collection; and as the several public papers circulate, or are transcribed into others, in the different country towns, and even find their way into the villages, where every man, down to the labourer, peruses them with a sort of eagerness, every individual thus becomes acquainted with the state of the nation, from one end to the other, and by these means the general intercourse is such, that the three kingdoms, seem as if they were one single town.

' And it is this public notoriety of all things that constitutes the supplemental power, or check, which, we have above said, is so useful to remedy the unavoidable insufficiency of the laws, and keep within their respective bounds all those persons who have any share of public authority.'

By this it is not intended, to throw any disrespect by this respectable writer upon the magistrates, but it is saying in other words, as I will immediately read from another authority, that it will force bad men to be good, or shew them in what way they will be punished, if they continue to be bad.

MR. CLERK.—My Lords, I will read your Lordships, page 451. of Mr. De Lolme's book.

' In all monarchies, (and it is the same in Republics,) the executive power in the state is supposed to possess, originally and by itself, all manner of lawful authority: every one of its exertions is deemed to be legal; and they do not cease to be so, till they are stopped by some express and positive regulation. The sovereign, and also the civil magistrate, till so stopped by some positive law, may come upon the subject when they choose; they may question any of his actions; they may construe them into unlawful acts; and inflict a penalty, as they please: in these respects they may be thought to abuse, but not to exceed, their power. The authority of the government, in short, is supposed to be unlimited so far as there are no visible boundaries set up against it: behind and within these boundaries, lies whatever degree of liberty the subject may possess.

' In England, the very reverse obtains. It is not the authority of the government, it is the liberty of the subject, which is supposed to be unbounded. All the individual's actions are supposed to be lawful, till that law is pointed out which makes them to be otherwise. The *onus probandi* is here transferred from the subject to the prince. The subject is not at any time to shew the grounds of his conduct. When the sovereign or magistrate think proper to exert themselves, it is their business to find out and produce the law in their own favour, and the prohibition against the subject.'—And, in a note, he says, 'I shall take the liberty to mention another fact respecting myself, as it may serve to elucidate the above observations; or at least my manner of expressing them. I remember when I was beginning to pay attention to the operations of the English Government, I was under a prepossession of quite a contrary nature to that of the gentleman whose opinions have been above discussed: I used to take it for granted that every article of liberty the subject enjoys in this country, was grounded upon some positive law by which this liberty was insured to him. In regard to the freedom of the press I had no doubt but it was so, and that there existed some particular law, or rather series of laws or legislative paragraphs, by which this freedom was defined and carefully secured: and as the liberty of writing happened at

‘ that time to be carried very far, and to excite a great deal of
 ‘ attention (the noise about the Middlesex election had not yet
 ‘ subsided,) I particularly wished to see those laws I supposed,
 ‘ not doubting but there must be something remarkable in the
 ‘ wording of them. I looked into those law books I had oppor-
 ‘ tunities to come at, such as Jacob’s and Cunningham’s *Law*
 ‘ *Dictionaries*, Wood’s *Institutes*, and Judge Blackstone’s *Com-*
 ‘ *mentaries*. I also found means to have a sight of Comyns’s
 ‘ *Digest of the Laws of England*, and I was again disappointed :
 ‘ this Author, though this Work consists of five folio volumes,
 ‘ had not had, any more than the authors just mentioned, any
 ‘ room to spare for the interesting law I was in search of. At
 ‘ length it occurred to me, though not immediately, that this
 ‘ liberty of the press was grounded upon its not being prohibit-
 ‘ ed,—that this want of prohibition was the sole, and at the
 ‘ same time solid, foundation of it. This led me, when I after-
 ‘ wards thought of writing something upon the government of
 ‘ this country, to give the definition of the freedom of the press,
 ‘ which is contained in p. 296, 297 : adding to it the imporant
 ‘ consideration of all actions respecting publications being to be
 ‘ decided by a jury.’ [See Appendix, No. 6.]

Mr. HAGGART.—In addition to what Mr. Clerk has read, I shall only state a circumstance, which, in the statute law of this country, your Lordships will find an authority for, that during the reign of Charles I. during the reign of Charles II. or part of it, and for a period of years about that time, there was known a Court called the Star Chamber, and a part of their duty was the licensing of all that was published; they were in the same situation then, that publications are in Spain at this moment, but your Lordships know, that was one great mean, by which the glorious Revolution was brought about; and since that time, it has been taken up upon the broad basis, upon which your Lordships now see it.

I will now read to your Lordships part of the speech of Mr. Grattan of Ireland; he says, speaking of the associations,—‘ But
 ‘ there is not a man in Ireland, there is not a Grand Jury,’ &c.
 [See Appendix, No. 7.]

Observe now, to what length this Irish orator goes, and, it has not been found to be libellous; he even justifies a meeting

in the field. Gentlemen will perceive, that I allude to the transactions at Dungannon.

the apostles had no precedent. Such is the language used by Mr. Grattan, in the Irish House of Commons; there have been no instances of language in our House of Commons going that length; but I mention that, to shew what is understood to be the liberty and privilege of Parliament, and which language is handed about without any censure. Is there any such language here? the whole burden of the song is a Reform in Parliament; and, the words they use are constitutional, they are proper, and sanctioned by the instances I have given, by the authorities I have stated.

My Lords, the next authority I shall state upon the same subject with De Lolme, is that of the immortal Milton.—‘We have them not,’ says Milton, ‘that can be heard of, from any ancient state, or policy, or church, nor by any statute left us by our ancestors, older or later, nor from the modern custom of any reformed city, or church abroad; but from the most antichristian council, and the most tyrannous inquisition that ever existed. Till then, books were ever as freely admitted into the world as any other birth; *the issue of the brain was no more stifled than the issue of the womb.*’

I shall next call your Lordships’ attention to the celebrated Mr. Hume’s opinion upon this business, and, my Lords, it being a thing perfectly well known, that Hume was a monarchical man, and attached to monarchical principles, the authority of this author is as great an authority as I can possibly refer to. After shewing the advantages of a monarchy, he says,—‘It is apprehended, that arbitrary power would steal in upon us, were we not careful to prevent its progress, and were there not an easy method of conveying the alarm from one end of the kingdom to the other. *The spirit of the people must frequently be roused, in order to curb the ambition of the court;* and the dread of rousing this spirit, must be employed to prevent that ambition. Nothing is so effectual to this purpose as the liberty of the press, by which all the learning, wit, and genius of the nation, may be employed on the side of freedom, and every one be animated to its defence. *As long, therefore, as the re-*

*'publican part of our government can maintain itself against the
'monarchical, it will naturally be careful to keep the press open,
'as of importance to its own preservation.'*

Now, my Lords, I shall beg leave only to mention further, Lord Chesterfield's opinion upon this subject, which is extremely short, but very emphatic, and very expressive, in a speech delivered by him, in his place, as a member of Parliament. 'The
'stage,' my Lords, 'and the press, are two of our out-centries;
'if we remove them, if we hood-wink them, if we throw them
'in fetters, the enemy may surprise us.'

My Lords, there is just one authority more, and; although it is not an authority of that standing, yet it has reason within it, and will speak for itself; and if any addition be wanting to the name of Stanhope, the reasoning will have its weight.—'If,' says his Lordship, 'our boasted liberty of the press, were to
'consist only in the liberty to write in praise of the constitution,
'this is a liberty enjoyed under many arbitrary governments.
'I suppose it would not be deemed quite an unpardonable offence, even by the Empress of Russia, if any man were to take
'it into his head to write a panegyric upon the Russian form of
'government. Such a liberty as that, might therefore properly
'be termed the *Russian Liberty of the Press*. But, the *English
'Liberty of the Press* is of a very different description: for, by
'the law of England, it is not prohibited to publish speculative
'works upon the constitution, whether *they contain praise or
'censure.*

I say, there is language expressive of itself; it is beyond all authority, it is drawing that contrast, which I hope will long continue between the government of Russia and the government of this country; it suggests also an idea, that that woman, that insatiable ambitious woman, will never have an end to her ambition. Then, ought not people to be roused? I doubt not, but the people at the Berean Meeting-house, might have an allusion to her conquest over Turkey,—her lust, her never failing lust of conquest, will never be satiated; united with one of our allies, (I am sorry for it;) to destroy Poland, that free people,—it ought to make us think of ourselves at this awful period, when we see these two great despots never failing to conquer. God forbid, that, after conquering Poland, that free country—I cannot

imagine that spot upon the earth, where next to Poland it most dwells—God forbid, that they should direct their views to that spot.

Having encroached so much upon your Lordships' time, but conceiving it to be my duty—

LORD ABERCROMBIE.—Take your own time.

MR. HAGGART.—I say, I think I was called upon to shew, that, if criminality is to be attached to the Liberty of the Press, infinitely greater freedom, than that used by my Client, has been made use of. I shall not take up your Lordships' time with a recapitulation of the speeches or of the authorities. But, my Lords, to bring my argument to a point. I hope I have, in the *first* place, clearly shewn, that the minor proposition does not in this case make out the facts which are stated in the major proposition. I say that there is not through the whole of this any attack upon the constitution of the country; and if your Lordships are of opinion, that there is no attack whatever upon the constitution of this country in the whole of that paper, you will dismiss it as not properly laid: But if your Lordships should be of opinion that there is accuracy, I have to state to your Lordships further, that upon the whole face of the paper there is no sedition; that the sum and substance of the paper is to encourage to another petition for Parliamentary Reform, to stir up their friends and fellow citizens, who are attached with strong and steady attachment, to apply again to Parliament; I say that is the whole sum and substance upon the face of that paper, and that being the case, I do submit and humbly hope, your Lordships will have no difficulty in finding that the matter, which is here charged, is not relevant.

My Lords, I would only further add, that no doubt alarms have of late gone abroad, but I hope in God those alarms are now at an end; if any period is more to be dreaded than another, it must be a crisis of this kind, it is dangerous to stop short---history shews that when * * * * * diseases infinitely worse than those rooted out have been the consequence.---But, my Lords, I hope there is no ground for any precedent of that kind to be established, and I trust you will, in the words of the im-

mortal Milton---you will allow the effusions of the Press to be as free as the issue from the womb.

Mr. M^CONACHIE.---My Lords, in collecting from this very long speech, what is the import of the objections that are opposed upon the part of the Pannel, I find myself not a little at a loss, for, as far as I can comprehend, the whole drift of Mr. Haggart's speech, it goes to attack the major proposition in the indictment, as not containing sound law. I don't really comprehend it, for as far as I have been able to follow the learned gentleman, or use my eye and my understanding, I think no man can hesitate an instant to see, that the facts come up to the major proposition, if it be true that the conduct of this man, or that man, the language of this man, or that man, may be quoted as evidence of the law of Scotland to your Lordships, that such language may be used with impunity; and therefore law, if your Lordships adopt that, then it overturns the major proposition. But that it contains law, I am sure no lawyer can doubt; no man can doubt, not only that it is the law of Scotland, but it is impossible any government should exist if it is not law. The words of it are, 'that by the laws of this, and every other well governed realm'. &c. [*See Indictment p. 5.*]

Now, I should humbly apprehend that this is the clear law of this land, and the clear law of every country; what your Lordships has to enquire is, not how often this law has been violated with impunity, not how often gross indecencies may have been committed by individuals with respectable names and high titles, but what your Lordships has to enquire into is, whether or not the circumstances stated, the production libelled upon, amount, if proved, to have been written or circulated by the person at the Bar? Whether this amounts to the statement of the law in the major proposition?

Now, my Lords, I apprehend that, in reading that publication which was circulated privately, it was a sort of smuggled business, it cannot be perused without seeing that it contains in it all the ingredients charged as criminal in the major proposition, that it is a seditious and inflammatory writing, and tending,

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with whom we are at war. I apprehend that very slight observation will be sufficient to satisfy every person that I am stating

no more than the import of that paper amounts to. I do not mean to follow at all the observations of the learned gentleman, with regard to it, but to call the attention of your Lordships to the real and obvious import of it, as it meets the eye of a man of common understanding. It commends, first, their fellow citizens for their loyal and steady conduct in these days of adversity, that they have shewn that they are worthy of at least some small portion of liberty, but then it promises to rouse them from their lethargy, and it tells them, in order to rouse them from their lethargy, that though they are possessed of some portion of liberty, they would be in the depth of slavery and misery, if they prevent it not by their well-timed efforts. Having said this, it goes on to tell them, what are the misfortunes that are sinking them in this depth of slavery and misery, (and very great misfortunes they are, if they are true,) every day is adding a new link to our chain. This is the general statement, I apprehend, of the evil, that every day is adding a new link to our chain. Here it is said, we are already in chains, for our portion of liberty is so insignificantly small, that we are still wearing chains, and it goes on to state what are the chains. "Is not the executive branch daily seizing new, unprecedented, and unwarrantable powers?" Then it goes on to attack the other branches of the legislature as well as the King. "Has not the House of Commons, (your only security from the evils of tyranny and aristocracy,) joined the coalition against you?" I am now speaking as to the plain scope and intendment of it; what does any man of common sense understand by it? Is it not plainly saying, that the House of Commons, who should be your protection against the executive and aristocratic part of the government, have joined that coalition that is formed against the people by the other two bodies of the legislature? The indictment is not for treason, but I apprehend there are words there that would amount to treason; but if they do not, surely they will amount to sedition, in what is stated in the major proposition. Then it goes on to say, "we have done our duty, and are determined to keep our posts." I wonder, among the learned gentleman's other authorities, he did not quote the French newspapers, where every day they are saying how they stick by

their posts. I expected that that would have been one of his authorities.

It then goes on, 'ever ready to assert our just rights,' &c. [*See indictment p. 7.*]

Then hear what they state, and in what words, that they are to assert the universal right of suffrage. Is there any such right to be found in the acts of Parliament? Is there any such right to be found in the constitution of our ancestors? or in any constitution of the world, except that of France? and I am happy to think, that I know something of the history of our constitution. I am sure there was no period when there was any thing like universal suffrage; there never was a period when it was so much like universal as at present. In what way are they to assert it? it cannot be done by legal means, for no law recognizes it; they are to assert it as their just right and privilege, and as the chief of their just rights and privileges.

Then, my Lords, they go on to tell, that they are not disappointed by the decision of the House of Commons concerning their Petition. "It is a question we did not expect, though founded on truth and reason, would be supported by superior numbers." The learned gentleman therefore is clearly mistaken in saying, that the object of this paper was to produce a second petition, for they say, they were not disappointed in their defeat. In short, it is now the time when these gentlemen are to assemble, in consequence of their not having been disappointed in the petition which they presented *pro forma*, and now they were to assert their rights, not by petitioning, because that was a measure that they knew to be nugatory, for they say, they were not disappointed.

Then they go on, 'Far from being discouraged,' &c. [*See indictment p. 8.*]

Now, upon what principle of law, or, upon what principle of common sense, it is founded I know not, but so it is, that those gentlemen set up this in the same way, that they might set up a claim to share the property of every gentleman in the country, or to seize upon any franchise belonging to another. That is not the species of liberty granted by this constitution, the constitution of this country, when it confides a franchise, it confides it to a part, for the benefit of the whole; it does not con-

vide it to the mob, it does not confide it to a disorganised mob, but it confides it where it has the least reason to expect it to be abused, and we thank God, it has been so little abused, as to produce a House of Commons, to answer every purpose of government, to produce upon the whole such a House of Commons, as no body of men in any country can be put in competition with. Where is there a collection of men by delegation, that can be compared to the virtue, the integrity, and the character of the British House of Commons; having preserved for two centuries a character that no senate ever maintained for high spirit, for an equal regard to the interest of the country at large, for a regard to the interest of the meanest, as well as the highest; a regard that keeps them within, and has kept them above 150 years, within the precincts of their own rights and privileges, without encroaching upon those other powers equally necessary for the existence of a government; a situation, that will place them in the annals of mankind, as high as any body of assembled men ever stood, or can stand; a situation in which they are now in a singular manner unrivalled, when compared. Indeed, it is unnecessary for any man that can read, to think of stating the comparison between them and the body of men collected according to those Utopian systems of universal suffrage, which were a disgrace to mankind, and brought confusion upon the nation that was before enlightened and civilized.

Then it goes on, having stated this claim, and that they are to assert it, and having warned their fellow citizens that petitioning was good for nothing, for nothing was to be expected from it, they say, 'The time is now come,' &c. [*See indictment p. 8.*]

Is this the language of a petitioning people, who are calmly stating their sentiments, in order that they may meet with a free discussion? It is the import of Mr. Grattan's language, and I defy any man of common sense to read the paper without seeing, that this original measure of the people assuming their own powers was here alluded to.

'The time is now come,' &c. [*See indictment p. 8.*]

Undoubtedly, if the time is come, in this language, to assemble round the fabric of liberty in order to preserve it; the country should rise as a man to protect it, for the fabric of British

Liberty is well worth protecting; but it is to be protected not by such hands.

'You are plunged into a war by a wicked ministry,' &c. [*See indictment p. 8.*]

These gentlemen, having now arraigned the constitution, having told you in their Address to their Fellow Citizens, that the whole parts of the legislature were corrupt, and joined in a coalition against the people, having stated their claim to a right of suffrage, hostile and ruinous to the constitution, which would be fatal to it the moment it was accomplished, that could not exist, either without a King, or a House of Lords. Having arraigned these, and stated their plan of claiming an universal suffrage, and warning the people to rouse themselves,—then, as the horrible effect of our present wicked constitution, the King with the Parliament are joined in a coalition, the end and design of which is, the destruction of a whole people, merely because they will be free;—a most horrible design indeed! it would be, for who can doubt that if the legislature of this country concur in the design of destroying a whole people, merely because they will be free, that that legislature should be consigned, not only to detestation, but to destruction and punishment, it should be put an end to—I say, the nation should rise and extirpate such a legislature, who concur in the design of extirpating a whole people, because they will be free; instead of such an object, they ought to rejoice in the dissemination of freedom; but will any person say with truth, that that is the conduct of this country? Did not this country look on with satisfaction, at what took place in France? but at the moment that our own liberties were threatened, that our own constitution was attacked, when foreign enemies aided our intestine foes, to misrepresent the constitution, and excite the people to spurn the gifts that God in his mercy had showered upon them, more than he had ever bestowed upon any other people, then it was necessary for us to join in war with men who, having destroyed every particle of liberty in their own country, endeavoured to disseminate, by the worst of means, by rebellion, and by every sort of treachery and villany, to disseminate the same cursed * * in other countries. Then it goes on to mention the natural consequences of this war, consequences, which I say must be attributed, in a great mea-

sure, to such societies; for if there had not been those infamous connections with France, those connections that have appeared in public, from Societies calling themselves Friends of the People in this country, there would have been no war, there would have been no encouragement for them to have been so mad, as to have thought of attacking the British army, if they had not conceived that there was a set of men in this country, stirred up by their enemies to bring about those disturbances here, of which the rascally part of France was reaping the advantage, at the expence of all that was good or worthy in the country. Then they go on to tell a gross falsehood, but highly fitting to kindle an alarm in the minds of well-meaning ignorant people. 'To the loss of the invaluable rights and privileges which our fathers enjoyed,' &c. [*See Indictment, p. 9.*]

Taxes are oppressive and hard, but they are often the price of great and important privileges, of great enjoyments, and at any rate they are the least of two evils; better pay taxes than be under the government of a mob, or of the base and unprincipled characters that are designed to be the leaders of it. War is a great evil, but war, though a great evil, must be borne. But these gentlemen state a list of bankrupts, which they are pleased to attribute to the war, which I have no objection to, but they state these evils as brought on by wickedness, because government did not sit with their arms folded across unmindful of their duty. Where are those invaluable rights and privileges which our fathers enjoyed? What rights did our ancestors enjoy which we do not enjoy in the fullest manner, and with improvement? I know of none; and I defy all those who arraign the constitution and the government of this country, and all the passages that have been summoned and scraped together from every quarter for the purpose, to shew me one privilege that they enjoyed which we do not now enjoy. This is a gross, a palpable, and a most seditious falsehood, for there is nothing that will kindle men's minds like the idea of being deprived of what their ancestors purchased, and endeavoured to transmit to them. Can there be a grosser crime then committed, than, in a serious matter of this kind, to endeavour to stir up the ignorant, by telling them a gross and abominable falsehood of that nature. Having gone this length, they conclude with a solemn appeal, and

it is such an appeal that, upon momentous occasions, might certainly with great public virtue be given, but it is such an appeal, that, as long as government exists, can never be endured, unless in the case of an original motion, as the gentleman has termed it. The words are these, 'Fellow citizens, the friends of liberty call upon you,' &c. [See *Indictment*, p. 9.]

Such language as this, would have immortalized those that used it, had it been published at the æra of the Revolution, when the bishops were sent to the Tower, when the King assumed the right of levying taxes, and of modelling our religion; and if such times should come again, let it be used, but not till they come again. Shall the rights and privileges of the freemen of this country be sported with? Shall we be deprived of the benefits of that free and happy government? Or, shall we, to our face, have the ignorant part of the country solicited to rise, to deprive us of our privileges which we have enjoyed for a century past? and, shall we not have a power in the law of this country, to punish the intentional rebel, who would endeavour to stir up the people to make use of a power which the law never gave them, which their ancestors never gave them, and which they never could be fitted for? such an act must seem to every person, whatever are their sentiments, as long as government exists, a most atrocious and iniquitous act; as a thing that calls for punishment, and, for which, no plea of justification can possibly be set up in a Court of Justice: The only plea that can be set up is, the plea of the sword—none else. The time may come—and then I hope there will be spirit and virtue in the country to assert its rights—the country lately shewed its power to assert its right, not against the executive power, not against the representatives of the people, but against those who were organizing a different representation, a series of little parliaments, these self constituted societies, forming a Convention from these, then there was reason for alarm to the good citizens of the country, and the good citizens came forward, and signified their resolution to abide by the constitution with their lives and fortunes, and to share its fate; and, I hope, if our religion, or our civil liberty is again attacked, if a king or a mob shall dare to persecute us for our freedom, that there will be spirit in this country to assert its right, and maintain our constitution,—kings are

but men, and we ought to be thankful for such a king as we have; but if a king were to come who was to send the bishops to the Tower, because they refused to read a prayer or a liturgy disowning the Godhead of Christ,—were the time to come, when men should be punished for refusing to pay taxes,—were the time to come, when men were to be tried without form of law, without judges, or juries, but by the arbitrary power of the crown, by their minions and delegates, then would be the time for every man of spirit in the country to assert their rights; but while your Lordships sit in judgment, you are bound to consider such language as is here used, as a gross and most violent criminal act, an act approaching to high treason, if not actually high treason, and indeed what has been generally considered as —treason. But I am not called upon to go so far. I am only called upon to point out to your Lordships, that there was in this libel, matter that came up to the full statement of the proposition; and it is impossible to consider it in any other view, than as an attempt to insinuate to the people, that they have been oppressed, injured, and deprived of their rights, contrary to what is known to be the fact; and that they are living under a wicked and abominable government, when they are living under the best government that ever existed; and endeavouring to excite them to assert their rights, in the only way in which they can be asserted—by the sword.

MR. HAGGART.—My Lords, whether it has been my fault in not making what I meant to say sufficiently perspicuous, or the fault of the Prosecutor in not being attentive to what I said, I know not, but he has totally mistaken the first great and capital objection that I stated to this indictment; he says, I told your Lordships, that what was stated in the major proposition was not seditious. My Lords, I never stated such an idea, and I am equally astonished that such an idea should have occurred to any lawyer, and particularly should have occurred to him. What I meant to state was, that it was not a syllogism; that what is stated there is sedition no person can doubt, but what I stated was, that the practice having made it necessary, that the strict syllogistic form should be adhered to, that unless the minor proposition states facts that would make out that attack upon the

constitution, which is stated in the major, is not a syllogism; and that therefore you cannot attend to it.

In going along, I was not a little surprised at another thing, that a great number of high titles, and all incendiary, having stated what was said in these addresses, that they ought to be punished. My Lords, it might be a fair argument that was drawn from it, that they ought to be punished, but the argument I draw is, that, since it is from superiors and uninterrupted precedent, precedent beyond all memory, they had a right to copy it. If it should please our happy constitution, not a word of the House of Lords is mentioned, if it should please them to make a declaratory law to say, henceforth there shall be no such associations, then I would hold it to be illegal, because it would be prohibited by the only legal authority, that is, an act of Parliament. The learned gentleman dwelt a long time upon the word chains, but there occurred to me a very simple idea of their chains. I have been informed, that there have been very great complaints, that there have been very great murmurings, and this is a new source of complaints in the boroughs; that these burghesses cannot get any reform at all, and that they are bound in chains; but I am sure it was a very great stretch of the imagination, and the idea I have held forth, is just as natural as talking of going to the French posts; there is no such thing from the beginning to the end of this publication, the whole idea is a Reform in Parliament. My Lords, I must take the liberty of stating, that Mr. M'Conachie did lay himself not a little open in what he concluded with; he said, if I have taken down his words right, and he will correct me if I have not, he said, as there was no law that lays down, that universal suffrage is to be recognized in this country, that no person is entitled to have a speculative opinion, or to express that opinion in a petition to the House of Commons.

Mr. M'CONACHIE.—I did not say a word of speculative opinions.

Mr. HAGGART.—But you said, that no subject of this country had a right to go into the mode of assembling and petitioning the House of Commons.

Mr. M'CONACHIE.—I said no such words.

Mr. HAGGART.—Then what you said was this, I hope I shall

be right the third time, that this was a language fitted to a great era, such as the Revolution; and that if there were to exist wicked ministers, if it was then to be the case, that the bishops were to be sent to the Tower for refusing to read the Confession of Faith,—that Mr. M'Conachie proposed then the kingdom would be entitled to rise. I shall beg leave to know what people are to rise? is it only the bishops who are to arise? is it the House of Commons who are to arise?

that they may go into open rebellion? I abhor that idea.—I disclaim that idea. I say the constitution does not admit of it. I say that it is more a libel upon the constitution, than any thing I ever heard written or said. I say Mr. M'Conachie's plan is sedition in the highest degree, when opposed to me; he is for rising with open arms, and all that I contend for is, that I may have the freedom of petitioning Parliament; that is the whole scope and tenor of the petition and resolutions in the case; and I hope I shall not be told that I have no right to petition; when that day comes, I shall think that the liberty, and every thing belonging to this happy constitution, is transmitted from the people to the crown.

Lord ESKGROVE.—Thomas Fyshe Palmer stands accused of the crime stated in this indictment; he is indicted upon principles of law and justice; and though he stands there, he is to be presumed at present an innocent person. I should be extremely happy in this case, as in every other case, that it should appear that he is innocent; but, at present, where the consideration is the nature of the charge against him, it is equally my rule and the rule of this Court, that we must take the charge as if it were true, and the consideration for your Lordship is, whether, supposing that this person did do what it is here alledged, he did do it? Whether he committed the crime or the crimes with which he is charged, or no? My Lord the libel consists of two propositions, in the usual form of criminal indictments in this country; it consists of the major proposition, which sets forth the nature of the general charge, and proceeds, in the minor, to state the facts from which the Prosecutor infers that the Pannel has committed that crime. My Lord, with regard to the major proposition, the counsel for the Pannel has admitted, that it is sedi-

tion; and no person can entertain a doubt that, if there is any such thing as a government existing in this country, the major proposition does set forth a crime of a very high nature. It states that, 'whereas by the laws of this, and every well governed realm, the wickedly and feloniously writing or printing, or 'causing to be wrote and printed,' &c. [*See the major proposition of the Indictment.*]

I said before, that the Counsel for the Pannel disclaims the relevancy of this general charge. Indeed, my Lord, it would be the strangest country in the world, and the strangest government that ever existed, or similar to nothing but that anarchy, which unfortunately prevails in another country,—I say, if a person does that which will raise a spirit of discontent in the minds of the people, which supposes that the people are in a happy condition, that in order to do so, he has calumniated the measures of government and represented them, as in a league with tyrannical government; and also vindicated the enemies of the country, representing that we are at war with them, because they will be free, and recommending them as objects of great commendation, and that it is a fault in Parliament, to make war against a people who are brethren, and whom we should support. That being the case, and that these are high crimes by the old law of this country; sedition, and raising commotions among the people, was considered as a species of treason; and, my Lord, though we are not called upon in these days, to carry matters to that extent, yet it is said by the counsel, that it approaches very near to treason; that it is very difficult to draw the line between trying to inflame the people against the King, who is one of the branches of the legislature, that that should be called treason, and that it cannot be a lesser crime, to endeavour to overthrow not only the King, but the King, Lords, and Commons. The major proposition here sets forth, that this person, the person here described, a clergyman by profession, residing at Dundee, over a set of religious people to which I have no objection,—a man in this country can enjoy his religion with perfect freedom, and never be called in question,—that this gentleman, one of the Society of the Friends of the People, I have no objection to the title of any society, if their actions are good, —did then, and there, put into the hands of George Mealmaker,

weaver in Dundee, a manuscript or writing of a wicked and seditious import, &c. composed by the said T. F. Palmer, or by him caused to be composed; there is no distinction between a man's writing with his own hands, or his dictating to another to compose.—It afterwards underwent various alterations, suggested by the fore said meeting, and by desire of the said meeting, was again put into his hand, that it might by his means be printed and published.

Then follows the title of it, which begins with 'Dundee Berean Meeting-House, July 1793.—At a General Meeting of the Friends of Liberty, they unanimously resolved to publish the following Address to their Fellow Citizens.' It does not rest there alone, with having written and published this paper, but goes on further, and says, 'Further the said Thomas Fische Palmer, did sometime during the month of July aforesaid, wickedly and feloniously distribute, and circulate, in Dundee, Edinburgh, and elsewhere, or caused to be circulated,' &c.—And these are particular acts condescended upon,—this gentleman at the bar, is alledged to have circulated this composition, if it is an innocent and a harmless paper, all these things will go for nothing, that man was not to blame for composing it, or for writing, or causing it to be written, or for circulating, or causing to be circulated; but if it is a paper tending to cause tumults and rebellions, and overturn the government, we are to consider every circumstance attending it; one thing I cannot depart from, which, if it is a seditious writing, is not a little of a strong nature; this gentleman's counsel tells us, that he is a gentleman, born of a respectable family in the South of England. A stranger comes to this country, with an intention to propagate religion among these people; I have no objection to that, if he had confined himself to preaching the doctrines he chuses to adopt, but instead of doing that, he turns his Meeting-house into a house of * * * for political discussion, for it states it, as dated from the Dundee Berean Meeting-house. All nations are liable to have bad men among them; but I own, we are little obliged to strangers, who, coming here under the pretence of preaching what they call the gospel, should preach sedition among the people.

My Lord, this leads me to the nature of this paper, and before

I go minutely into it I do, for one, hold, *that the liberty of this country is well founded in a right to petition all the branches of the legislature*; and when they present that petition in proper form, and in decent language, (which I am sorry to say we have not an instance of this day quoted to us from the bar,) then I hope the legislature will take proper means for redress. But, if on the other hand, instead of applying in the regular manner to the only quarter where redress can be obtained, any public or private man, Clergy or Laity, for I hold a mechanic in the country to be a free subject, but they have not that opportunity from their station, as their superiors have, by reading; they were people ignorant altogether of the very grievances which they are told they are loaded with, till they are assembled and taught that they were in a state of oppression. Now let us look into this paper. 'You, who by your loyal and steady conduct in these days of Adversity,' &c. [See *Indictment* p. 7.]

'Days of adversity,'—It does not occur to me that this country was in a greater state of adversity, (farther than being engaged in a war,) in this last month of July, than at any other period;—'they are only worthy of some small portion of liberty;' I think he was, at that very time, enjoining more liberty than any subject of any country upon the face of the earth. We know very well that, in the month of November, there were many such meetings held, and many such publications; and we know a stop was put to them, by the noble spirit that appeared for supporting the constitution; and I did not think that, in July last, there would have been any person so bold, as to make an attempt which had proved so fruitless before. This paper goes on to say—'we will tell you whole truths, they are of a kind 'to alarm and arouse you out of your lethargy.' Here this writer is supposing that his auditors are in a state of lethargy, which implies a state of contentment, they are in a pacific contented state. But this writer is to awaken them from their lethargy. 'That portion of liberty you once enjoyed is fast setting, we 'fear, in the darkness of despotism and tyranny.' That the sun of liberty is setting in the darkness of despotism and tyranny, we read in the mouths of the subjects of a country, who have just cause to endeavour to reform their constitution, and who took measures at first that might possibly have had that effect. It shows

that, when reformation gets into improper hands, they are the greatest tyrants and the greatest enemies to liberty; such a state of anarchy, of murder, and of arbitrary power, never was seen since the world began. 'Too soon perhaps you who were the world's envy, as possessed of some small portion of liberty,' a small portion of liberty! No my Lord, we possess all of us liberty more than we ever possessed, and all that is consistent with a free and happy state 'will be sunk in the depth of slavery and misery.' What words are there that can tend more to impress the minds of men, and especially men not so well acquainted with the history of this country, to take up their swords, in order to save them from that despotism and slavery? 'Is not every new day adding a link to your chains?' Where are the chains of arbitrary power? Is there a man existing in this country who does not enjoy his liberty, his religion, the freedom of exercising his art, his ingenuity, his industry, his trade? Is there any man who does not exercise those privileges in the utmost extent? 'Is not the executive branch daily seizing new &c. powers? Has not the House of Commons joined the coalition against you?' Against you;---What does this represent to these innocent good people, who were called to be the disciples of the person who wrote this paper? I hope it was not that Gentleman, but I am obliged to consider it as if it was. What do you think of it! Would it not strike every man that it meant, that the King, or his Ministers are daily seizing unprecedented and unwarrantable powers? Has Mr. Haggart at the bar offered to prove that this is a truth? Is it not consistent with the knowledge of every man who hears me, and is able to read and look at the history of this country of late, that nothing has been done by either King or Ministry without the sanction of the legislature? Then that is to represent the King, in the first place, as a tyrant, then who are the next set of people? Tyranny and Aristocracy. No country was ever more happy under a more amiable Prince, and the father of his people. Who are the Aristocracy? The House of Lords. Then comes the House of Commons, they are the Barrier, and no doubt they are the true and proper Barrier to prevent encroachments by King and Lords; but they are not to be trusted, they are joined in a combination with the King and the Lords against your liberty. 'Is the election of its members either fair,

‘free, or frequent?’ That is to indicate, that the people of this country are to have no confidence whatever in that branch of the legislature; every man sees the improvement made by this happy constitution, and that shews that we possess, in our happy constitution, the power of amending it, when it seems necessary. ‘We have done our duty and are determined to keep our posts,’ I will not say any thing about the word posts, if it means only to discover any thing that might be wrong, I don’t object to it: ‘Ever ready to assert our just rights and privileges as men, the chief of which we account the right of universal suffrage.’ I have no objection to a petition to Parliament, desiring them, if they think fit to alter the constitution, which I have no objection to, if they chuse to allow it; their wisdom will be better than mine; but is it not to overthrow the constitution? Is it not making a new constitution; for, to the present time, no such thing as universal suffrage ever existed: it is a speculative matter, and, I think, if we look to a neighbouring country, where guillotines, massacres, and murders are going on, it is no great encouragement, and I was surprised to hear my friend Mr. Haggart at the bar justify this proposal of a universal suffrage; but he only wants, that a man of £. 100 a-year should have a vote; and perhaps not one in this congregation was worth £. 100 a-year. Then it goes on ‘we are not deterred, &c.’ [See *Indictment*, p. 8.]

I agree with Mr. M^cConachie, that it is impossible for any man to read this paragraph, and avow what Mr. Haggart has pleaded, viz. that the whole intention of this was to encourage the people to petition, when the very words of it are, we neither expected, nor do expect to succeed in a petition to Parliament; and therefore something else must be intended. What else? every man, who hears me, must see; it could not be to carry on the measure that they knew Parliament was resolved not to adopt. Then follows the next paragraph, ‘the time is now come, &c.’ [See *Indictment*, p. 8.]

My Lord, this appears to me, in the *first* place, a gross falsehood, in saying the fabric of liberty is in danger: it is safe, and I hope will be safe in this country to the latest posterity, but those people are to rise to overthrow that constitution, which is the

happiest in the world. 'You are plunged into war,' &c. [*See Indictment, p. 8.*]

This is to awaken the minds of the readers to the object of the present war in which we are engaged, which is owing to the ambition and madness of the unfortunate people we are engaged with, having no government except to fraternize their neighbours; and the way of fraternizing them is with swords and guns, as they attempted to do in Brabant, and other countries; but they soon found themselves in a state of misery and slavery: And did they not show an inclination to come into this country to fraternize us too? Did they not talk of sending forty thousand men to force us to accept of liberty? And was not that a cause of alarm to the friends of true liberty, and occasioned them to rise in a way that, I should have thought, would have put an end to those attempts? The war in which we are engaged is in self-defence against the greatest invasion of our rights and liberties, that ever was attempted; but that we are at war, for the purpose of destroying a whole people, that is an insinuation so gross, and so cruel, that it is impossible any government ever can maintain itself, if it suffers such falsehoods to escape. 'By 'it your commerce is sore cramped, and almost ruined. Thou- 'sands and ten thousands of your Fellow Citizens, from being 'in a state of prosperity, are reduced to a state of poverty, mi- 'sery, and wretchedness.' This is not the people they are speak- ing to, for they are in a state of lethargy; are they to awaken them to tell them there is no commerce, that all is gone to wreck? Poor honest Tradesmen! They think nothing of that till they are told by this preacher of the gospel, and warned to rise. The conclusion is 'The blood of your brethren is pouring 'out; and all this to forge chains for a free people, and even- 'tually to rivet them forever on yourselves;' so that the object of this war is to enslave this nation. 'To the loss of the invaluable 'rights and privileges which our fathers enjoyed, we impute 'this barbarous and calamitous war, our ruinous and still grow- 'ing taxation, and all the miseries and oppressions which we la- 'bour under.' Now taxation is only one complaint; but there is, besides taxation, all the growing miseries we la- bour under: Taxation is necessary, without it a nation cannot exist; it is an unavoidable misfortune, we cannot help it; but

these worthy people are told, besides the taxes, all the miseries you are labouring under. When did we enjoy privileges that we are not now in the possession of? And which I hope will be transmitted to the latest posterity. 'The friends of liberty call upon you by all that is dear and worthy of possessing as men, by your own oppressions; by the miseries and sorrows of your suffering brethren,' *that is, by the miseries and sorrows of the people in France,*—'by all that you dread; by the sweet remembrance of your patriotic ancestors; and by all that your posterity have a right to expect from you,—to join us in our exertions for the preservation of our perishing liberty, and the recovery of our long lost rights.' What a strange situation is this for a people? One would suppose this man was preaching to a set of people from Russia, or Otaheite, as ignorant of Britain as one of these people. Does he say, in what manner these rights are to be asserted? Not a word. Does he say, the meaning is, that you concur in a petition to Parliament? There is no such thing; but you are to gather round the fabric of liberty. I wonder he did not mention the tree of liberty. But if any government suffers such an attack upon the constitution, making the man miserable who was happy before, nothing can have a worse effect to make men unhappy, and to bring anarchy and confusion into the country, among a set of originally well disposed persons. Is there any person living so abandoned as to be desirous, that this happy country should be put into that miserable and wretched situation to which they are so much attached? They talk of liberty! Why, a man was executed the other day for saying, that one tyrant was no worse than seven hundred, and directly his head was cut off. As to the liberty of the press, I believe it never was in the situation it is in now in France. I am a true friend to the liberty of the press, when printing in the ordinary course of publication; why, then he may exercise that proper liberty, which I hope every man is entitled to; but when that press is made the trumpet of rebellion, to circulate libels and seditious publications in the form of a Hand Bill, there never was an Advocate for the Liberty of the Press who pretended to justify it. Those speeches that have been quoted, I don't know whether they ever were made or not in the Houses of Parliament, in which they were said to be delivered; they are not

understood to be in the hearing of any body ; but we don't know upon what authority they have taken upon them to assert, that such and such men make use of such expressions ; but supposing they were true, it is the business of Parliament to take cognizance of their own members ? it does not belong to me to enquire into it ; if they have said any thing wrong, I am very sorry for it ; but, if there are a thousand crimes that go unpunished, is that an argument to be used by a lawyer ; because persons are guilty of equal crimes, and have not been punished, that therefore a supreme Court is to stamp an authority upon crimes brought before them ? Should it appear that a man had committed a murder, and was allowed to escape, would that have been an argument ; such a man, guilty of the same crime, has got away, let this man go too ; that is the strangest argument I ever heard. Our duty, my Lord, is merely official. I said before, we are not the Judges of, whether this man is guilty or not, we are here considering whether he has committed a crime that ought to be punished. I can have no hesitation in saying, in my conscience, that there would have been an end of all government ; every man would be unworthy of existing, who held, that a person finding fault with the Constitution and raising insurrections in the country, that that is no crime ; and because others have done it, we are not to sustain the action, is an abomination ; that if a Court of Justice were capable of it in this country, would deserve, and be worthy to receive the fate of that other country, in which all Courts of Justice, all liberty, and all religion has been overthrowr. I am of opinion that it is perfectly relevant, that there is no occasion to separate it, and say, this passage is seditious, and that is seditious, but, that the whole of it is seditious ; and I believe there is scarce any thing in it but is seditious ; and I am happy that, in this country, Scotland, greater privileges have been enjoyed than in England. I am happy to say, that a late incident has shewn that we have had more liberty than England has, for in questions of libel, and in questions of seditious publications, it never was in the breasts of the Jury to say, whether it was a libel or not ; it was not so in England till lately ; it is so now, which is another proof that the Parliament will amend themselves, when they see cause for it ; in so doing they only adopted in England what is and was the law

of Scotland; and therefore, I shall give my humble opinion, that the crime is relevant; and I humbly move your Lordship to find it criminal, and allow the Pannel to prove all facts and circumstances that may tend to exculpate him, or mitigate his guilt; and to refer it to an assize, to examine and consider upon the whole of the evidence, whether this is or not a most scandalous and seditious publication, and whether this man has committed the crime of writing, publishing, or circulating, yea or not.

LORD ABERCROMBIE.—My Lord, before I give any opinion upon the relevancy of the libel, I must take the liberty to observe, that by far the greater part of the argument, maintained upon the part of the Pannel, seemed to me to apply to a question, which, in my apprehension, has not the most distant connection with the issue of this trial; I mean the whole part of the argument which respected the Liberty of the Press, and the danger which that liberty might incur from the event of this trial. I agree with the authors, quoted by the Counsel for the Pannel, that the Liberty of the Press is one great bulwark of our free and excellent constitution, and, as such, I hope, my Lord, we shall ever preserve it; but, in what does that liberty consist? It consists in this, that every man may write, may print, may publish what he pleases, free from the lash of a licenser, free from the lash of imprimatur, as the Counsel for the Pannel stated. My Lord, with us the Liberty of the Press is as free as the liberty of speech; as every man may speak what he pleases, so every man may write, may print, may publish what he pleases. But, my Lord, he does it under one condition; that, if he speak treason, if he speak blasphemy, if he speak sedition, if he speak slander, he is liable to prosecution for that blasphemy, for that treason, for that sedition, and for that slander. In the same way, if he write, and print, and publish blasphemy, treason, sedition, or slander, he is liable to be punished for so doing, when convicted by a verdict of his country, by a Jury of his country, to whose unfettered judgment it must go, whether he has been guilty of speaking, writing, printing, or publishing any thing criminal. My Lord, that being the nature of the Liberty of the Press, it cannot be affected in any degree by this trial, in whatever way this trial may terminate; for the single question

here is, Whether this writing be, or be not a seditious writing; of that question the Jury must ultimately decide. If there be no sedition in it, then the writer of it has been guilty of no crime; if there be sedition in it, then he has violated the laws of his country; and ought to suffer for so doing.

My Lord, The single question which now occurs for our consideration is, Whether this be a seditious writing or no? And, my Lord, that is a question which, I agree with your Lordship, seems to me not to admit of the smallest doubt; for I believe there is not within these walls one man of common understanding, whose mind is not warped by some strange bias, by some unaccountable prejudice, who does not concur in the opinion given by your Lordship. As your Lordship has given that opinion so fully, and as the learned Counsel for the Prosecution spoke of it so fully, I should think it improper in this stage of the cause, to detain the Court with any further observations. It only remains for me to find the libel relevant to infer the pains of law; but allow the Pannel to prove, in the usual form, any and all facts and circumstances that may tend to exculpate him and remit his guilt.

The following Gentlemen of the Jury were then sworn:

Charles Campbell,	James Calderwood Durham, <i>Chan.</i>
Robert Stewart,	James Lumsden,
James Stewart,	Alexander Duncan,
Thomas Sandiman,	Patrick Lindsay,
David Laird,	Alexander Cunningham,
David Anderson,	Alexander Wood,
Col. John Thompson,	John Fair,
Andrew Whyte,	<i>Clerk, &c. &c.</i>

EVIDENCE FOR THE CROWN.

HARRY DAVIDSON,

Sworn.—Examined by Mr. BURNETT.

Q. Look at that Declaration, and see whether it is the one that you heard the Pannel emit?—A. Yes.

Q. Did he emit it voluntarily?—A. Yes.

Q. He appeared to be sober, and in his senses at the time?
A. Yes.

Q. There was no force nor compulsion made use of?—A. No.

Q. Look at those subscriptions, and see if they are yours at the back?—A. Yes.

Q. They were produced to you in the Sherriff's Clerks Office, were not they?—A. Yes.

Q. Is that your subscription?—A. Yes.

Q. It is signed by you?—A. Yes.

Q. Look at those two letters?

A. Yes, they have my subscriptions.

Mr. MACK also identified the hand-writing of the Declaration and some letters, and produced a letter addressed to Mr. Skirving, found in Mr. Skirving's House.

GEORGE MEALMAKER,

Sworn.—Examined by Mr. BURNETT.

Q. You are a weaver in Dundee?—A. Yes.

Mr. CLERK. It will be proper to tell this witness, that there is nothing that he may say against himself, that can afterwards be brought against him in a criminal prosecution, and for very particular reasons. I wish the witness to withdraw a minute.

[The witness ordered to withdraw.]

Mr. CLERK.—My Lords, the fact most certainly is, that this witness was himself the author of the Hand Bill which is now prosecuted; this is a fact of a very delicate nature, for the witness to confess, and therefore when that question comes to be put to him, I submit to your Lordships, it would be very proper to give him a very special warning, and a very special information indeed, that there is nothing that he can acknowledge, as to his being the writer or the publisher of this Hand Bill, that can affect his own personal safety; or that it is possible that he can be brought to trial for the publication of this Hand Bill.

[The witness called in again.]

Lord ESKGROVE. You are upon the oath I put you to, to tell the truth; and I can assure you that nothing that you can acknowledge, or say, regarding your own conduct, can militate against you; you cannot be accused of it; however, you must take care not to charge yourself falsely, for whatever is not true you are liable to answer for.

Mr. BURNETT. You are a member of a Society in Dundee?

A. Yes, there are two Societies in Dundee.

Q. What are they called ?

A. One is called the Friends of the Constitution, and the other, the Friends of Liberty.

Q. Which are you a member of ?

A. The Society of the Friends of Liberty.

Q. Where do the Friends of Liberty meet ?

A. They meet at present in a place, called the Berean Meeting-House.

Q. Was you in the use of attending their meetings generally ?

A. I generally attended them.

Q. Are you acquainted with James Yeoman Baker, at S.

A. Yes.

Q. Is he a member of that Society ?—*A.* Yes.

Q. Are there Officers in this Society, people that have any distinguishing name ?—*A.* Yes.

Q. Have you a Preses ?—*A.* Yes.

Q. What other Officers are there ?

A. We have a Secretary and a Treasurer.

Q. Did you bear any of these Offices ?—*A.* Yes.

Q. What was you ?

A. I was once Treasurer, and once President.

Q. Do you remember a manuscript at any time being produced in this Society, upon any particular occasion ?

A. I remember different manuscripts.

Q. Do you remember a manuscript in the form of an address to Friends and Fellow Citizens ?—*A.* Yes.

Q. At what time was that, as far as you remember ?

A. Sometime in July Month.

Q. Do you remember the title of that manuscript ?

A. I remember it was called an address to Fellow Citizens, or an address to the Friends of Liberty. I don't remember the words exactly.

Q. Who was it that produced this address, do you know ?

A. The first part that was produced was at a Committee; it was made by the Society in general, afterwards according to their liking.

Q. But who produced the manuscript, the first part of it ?

A. That which is but a part of it I produced.

Q. The first part of it ?

A. Yes, what was in being of it at that time.

Q. Was that manuscript read at that meeting ?—A. Yes.

Q. Who read the manuscript, as far as you recollect ?

A. In the Committee I believe it was laid upon the table, and Mr. Palmer, being invited by me, and some others, to that Society, read it.

Q. Did Mr. Palmer read it all through ?

A. As far as I recollect he read it over.

Q. What passed at the meeting ?

A. No more passed at that meeting concerning it.

Q. Was there an after meeting, when it was produced ?

A. Yes.

Q. Was there any other manuscript produced at that meeting ?—A. No other that I know of.

LORD ESKGROVE.—Was the meeting a Committee, or a full meeting ?

A. It was what was called in our notice, a general extraordinary meeting.

Q. When was this general extraordinary meeting called, as far as you recollect ?

A. I do not positively remember as to that.

Q. Was it called by that Committee that you was first in ?

A. Yes.

Q. What was the principle of calling that general extraordinary meeting ?

A. Concerning the particular concerns of the Society, in the first place ; and then to publish an address to our Fellow Citizens, upon the critical situation of the country.

Q. Was it proposed at that Committee, that this manuscript should be read in the general extraordinary meeting ?—A. Yes.

Q. Who produced the manuscript afterwards at the general extraordinary meeting ?

A. The Society was sometime gathered before I went in, and who brought it into the house I cannot tell ; there had been some consideration before I came into the meeting that night, and then I saw it lying upon the table first, I think.

Q. Was it read at that general extraordinary meeting ?

A. Yes.

Q. Who read it?—A. Me.

Q. Was there any debate upon it?—A. Yes, there was.

Q. Was the MS. of the Address complete at that time, was it finished?—A. No, it was not.

Q. When was it finished?

A. It was debated, and various alterations proposed and agreed to, and those alterations ordered to be made out.

Q. Was any thing done at the meeting after those alterations were made, any orders given about it?

A. It was ordered to be printed.

Q. Now recollect yourself before you answer this question, Who was it that the meeting ordered to get it printed?

A. As far as I recollect it was delivered to Mr. Palmer and James Ellis, or one, or both of them.

Q. Does it consist with your knowledge that Mr. Palmer was a member of that meeting?

A. He entered a member about that time.

Q. Is there any form at the entry of a member? or any book kept of the Society's proceedings?

A. There was a book with a test and the names of the Society—subscribing to a small Declaration, and the reasons why they signed it.

Q. And every member signed that when he entered?

A. Yes.

Q. Would you know, if you were to see this address, whether it was the same address that was approved of at that meeting and ordered to be printed?—A. I am not very sure.

Q. Look at this?

A. I have seen a paper like this before. I could not swear that it is altogether the same, word for word; but the general of it is the same, I think; but I could not swear to the whole.

Q. Look if your subscription is at the back of that?

A. Yes.

Q. You mentioned sometime ago, that there was only part of the address made up and produced at the Committee, and you mentioned afterwards, that this draught was produced afterwards at the general meeting, or part of it; now, as far as you recollect, was any addition made to this MS. from the time it wa

produced at the Committee, to the time it was produced at the general extraordinary meeting?—*A.* There were some additions.

Q. Do you know who made the additions?

A. I was not present, and I don't know.

Q. Do you know in whose possession the MS. was, from the time of the Committee to the General Meeting?

A. As far as I know, it was in the possession of Mr. Palmer.

Q. Was there, as far as you recollect, any thing mentioned in the books of the Society, when this MS. was read; was any minute taken down?

A. No, there was not, that I remember, if there was, I did not see it.

Q. Look at this paper—is that, as far as you recollect, the MS. copy produced at the general extraordinary meeting?

A. It is not.

Q. Look at it again, and see if you know whose hand-writing it is?—*A.* I don't know.

Q. Do you know any hand-writing that it is like?

A. That is a question that I cannot meddle with.

Lord ESKGROVE.—You are obliged to say whose you believe it to be.

A. I don't know; and no man living can make me say more than I know.

Q.—You must tell us, what is your opinion.

A. I can form no opinion concerning that paper; I don't know who wrote it, nor whose hand-writing it is.

Mr. BURNETT.—Do you know the person who wrote that paper, that was afterwards produced at this general extraordinary meeting?

A. The one produced at the general meeting was the same paper with some additions.

Lord ESKGROVE.—Was it the same hand-writing?

A. It was the same paper with alterations.

Mr. BURNETT.—Whose hand writing were the alterations?

A. I don't know.

Mr. M'CONACHIE.—Whose hand-writing were the additions?

A. I don't know.

Q. Do you know the hand-writing of any thing that was put upon that paper?

A. I cannot say as to that, because I wrote some of the alterations myself.

Lord ESKGROVE.—Did you write any thing upon that paper between the two meetings?—*A.* No.

Q. Were there some alterations made between these two meetings?—*A.* Yes.

Q. What opinion did you form? Did you believe it to be written by any one person in particular?

A. What I believe, I will not swear.

Q. But you must tell us what you believe.

A. I thought it was Mr. Palmer who had done it, but was not sure. I thought he said he had wrote it; but am not sure whether he said so or not.

Mr. BURNETT.—Are you acquainted with a person of the name of James Ellis?—*A.* I have some acquaintance of him.

Q. Did you ever see any letters of James Ellis, or any writing of Ellis?

A. I don't remember at present any letters, or writings of his.

Q. Do you know his hand-writing?—*A.* No, I do not.

Q. You would not know it if you were to see it.—*A.* No.

Mr. M'CONACHIE.—Were any of the alterations, that were made before the Committee, or before the Society, suggested by Mr. Palmer in your presence?

A. I have heard him, in the course of conversation speak about it, and propose alterations.

Q. The question that I put is, Whether any of the alterations, that were actually made, were suggested by Mr. Palmer?

A. There were so many of them speaking, that I cannot remember whether he did positively propose any of those things that were carried into effect, or not.

Q. Was he one of the speakers?—*A.* Yes, he did speak upon it.

Lord ESKGROVE.—You have said that the Society, ordered the Address to be printed; and I think you said, it was delivered either to Mr. Palmer, or some other person you named. I want to know whether that order was made by the Meeting in general?

A. Yes, by the unanimous will of the Society, without any dissention.

Mr. M'CONACHIE.—You said it was committed to Mr. Palmer,

or Ellis, to get it printed,—was any report made to the Society by this gentleman, of its having been printed?

A. The first report I heard was, that it was to be printed, and they accepted the offer, and that they should get it printed.

Lord ESKROVE.—Upon the oath you have taken, who was it made the offer to get it printed?

A. I said, these two gentlemen adopted the offer of the Society, that they should get it done.

Q. And when did you hear that it was printed?

A. The first that I heard of it was, when I first saw the printed copies in the meeting.—I beg pardon, I saw some in the hands of some of the members before I saw them in the meeting.

Mr. BURNETT.—Who produced them to the Society?

A. I cannot say.

Q. Did you see any in the hands of Mr. Palmer in the Society?

A. I don't remember whether I did or not.

Q. Did you receive any of them from Mr. Palmer? Recollect yourself before you make the answer.

A. I remember of receiving one, but I am not sure whether I did not ask him for it.

Mr. M'CONACHIE.—Was you Treasurer to the Society at this time?—*A.* No.

Q. Do you know whether the Society paid for the printing of these copies?—*A.* Yes.

Q. Who did they pay for them?

A. I heard that they were paid for, and saw the receipt for them. I saw an order given by the Society to pay for them.

Q. To whom?—*A.* To Mr. Palmer.

Q. And you believe that order was obeyed, and actually paid to Mr. Palmer?—*A.* I believe so.

Mr. BURNETT.—Did you hear from Mr. Palmer, or any other person, where this paper had been printed?

A. I never was informed properly where it was printed, so as to tell. I might hear a rumour, but I cannot tell.

Q. Where did you hear it was printed?

A. I heard it was printed at Edinburgh.

Q. Would you know the Society book, if you were to see it again?—*A.* I am not sure.

Q. Look, if that is the Society book?

A. I cannot say positively what this book is, it is not unlike it, but I am not sure, because I see nothing to give me an assurance of it.

Q. Do you know if there had been any leaves torn out of the Society book?

A. There was I heard leaves torn out of the Society book, but I did not see it.

Q. Do you know what the leaves contained, that were torn out of the book?

A. I cannot say as to that, because I did not see them torn.

Q. Was you told what they contained?

A. I was told they contained the names of the Society.

Q. And what were the names subjoined to—were they subjoined to a test?—*A.* Yes.

Q. And that was torn out too, I suppose?—*A.* I cannot say.

Lord ESKGROVE. Did you hear, whether the test was torn out?—*A.* I cannot be positive whether I heard so, or not.

GEORGE MEALMAKER,

Cross-examined by Mr. CLERK.

Q. Did you sign the test of the Society?—*A.* Yes.

Q. Do you remember the substance of the test?

A. I cannot positively say I remember it, so as to repeat it.

Q. Recollect as well as you can, and state what it is in substance, not the very words, but the meaning of it?

A. We, whose names are hereunto subjoined, do declare, that we are not altogether satisfied with the present representation of the people, that we are for a shorter duration of Parliaments, and a more equal representation, or something to that purpose, in the House of Commons.

Q. Was there any line or measure chalked out?

A. They were to use every legal means in their power to obtain it.

Q. Was it a short or a long paper?—*A.* It was pretty short.

Q. What part of a page in this book did the test take up?

A. Not quite so much as the fourth part of a page.

Q. How many lines did it make?

A. I don't remember the number of lines.

Q. Does it consist with your knowledge, who wrote the Ad-

dress when it was first produced?—*A.* Yes.

Q. Who made the original draught, was it Mr. Palmer?

A. No.

Q. I think you said Mr. Palmer had, in the course of conversation, and you believed, otherwise, as he was a speaker in the meeting, proposed alterations in the Hand Bill?—*A.* Yes.

Q. Can you tell what was the nature of those alterations?

A. As far as I could understand, they were of a softer nature than the thing was at first.

Q. What do you mean by a softer nature?

A. The terms were not so harsh.

Q. Mr. Palmer was for an address in softer terms,—not so harsh?—*A.* Yes.

Q. Did Mr. Palmer ever speak to you of the impropriety of publishing it at all?

A. In the original Committee, Mr. Palmer was against publishing it altogether.

Q. Has Mr. Palmer a house at Dundee, or near it?

A. He dwells in Dundee, I believe sometimes; I have seen him in what I believed to be his own house.

Q. Where does James Ellis live?

A. I have seen him, and have reason to believe that he lives with Mr. Palmer, but not altogether; I cannot say that he lives always with him.

Q. Do you know at what time Mr. Palmer was admitted a member of this Society.

A. I cannot recollect the day of the month, but I can recollect the time;—it was on that night of the General Meeting that I formerly alluded to.

Lord ESKGROVE.—Did not you say that he was at the Committee?

A. Yes, my Lord; but I also told your Lordship that he was invited there that night.

Mr. CLERK.—You have spoke of alterations that took place upon the Address, between the meeting of the Committee and the general meeting, what was the nature of the alterations?

A. I don't remember as to the alterations positively what was the nature of them, but I believe the words that Mr. Pal-

mer had thought too harsh, were taken out of it, or marked and interlined.

Q. Was there any alteration in the spelling?—A. Yes.

Q. Was that the chief alteration?—A. Yes, it was.

Q. Did you ever ask Mr. Palmer, to write an address of that sort?—A. No, I never did.

Q. Did you ever ask him to compose an address!

A. I don't remember whether I ever did or not positively; there was a talking of two addresses, or three, or more that was to be presented, but whether I asked Mr. Palmer to write one or not, I am not sure. I advised him to make such alterations as he thought necessary.

Q. Do you remember of it being proposed to Mr. Palmer himself, that he should write an address!

A. I cannot be sure at present of that.

LORD ABERCROMBIE.—You have shewed that the address remained in the hands of Mr. Palmer, from the time of the Committee, till the general meeting, and you said just now that you desired Mr. Palmer to make what alterations he thought proper, I should be glad to know, at what time you desired him to do so?

A. At the Committee it was given to him, and the Committee ordered him to look it over, and see what alterations were necessary.

MR. CLERK.—You have said that some of the alterations were made by yourself?—A. Yes.

Q. Were those alterations made, after it came out of Mr. Palmer's hands?—A. Yes.

LORD ESKGROVE.—Were your alterations adopted?

A. Yes, they were agreed to.

MR. CLERK.—Am I to understand that those alterations, that were made in the paper after it came out of Mr. Palmer's hands, were adopted?

A. Yes, every clause was debated upon, and then agreed to.

Q. You have already said, that Mr. Palmer was a speaker in the debate—Did he encourage those alterations that were proposed in the Society, or did he disapprove of them, or what part did Mr. Palmer take in the debate at the general meeting? Was he for softening the terms, or making them more harsh?

A. I remember he was for softening the expressions that he thought were inconvenient ; and I don't remember his proposing any alterations that night that was for making it, in my opinion, harsher, but still to be softer.

Q. Did Mr. Palmer, at the night of the general meeting, continue to dissuade them from publishing the paper at all ?

A. I do not recollect rightly whether he was against publishing it then ; but he was at last for publishing it, in agreement with the rest of the society.

Q. Do you know, or did you understand, what was the object of the society in publishing this same paper ; what good consequence did they expect from it ?

A. I believe the meaning of the society was, if I rightly understood them, that, in the present situation of the country, and in the part that we had taken in the affair, we were determined to call upon our fellow-citizens, by a spirited address. We meant nothing in the world but to make way to their feelings, and not to their passions : we had no idea of sedition in it ; and if there was, it was from want of knowledge in us : our ignorance is to blame ; and what we expected from it was, in the course of our prosecution to cause a Reform, we thought it necessary to put forth a paper of that kind, to animate our fellow-citizens to go on in getting that redress which we had not yet got.

Q. Was the propriety of publishing an address debated at more meetings than one ?

A. We had considered the publishing of an address for two or three months.

Q. And how many meetings might take place in that time ?

A. I cannot say, because we varied the times of our meeting ; sometimes we met once a-week, and sometimes not so often.

Q. And this was to animate your fellow-citizens in the same cause ?—*A.* Yes.

Q. Did you propose to petition Parliament for a Parliamentary Reform at that time ?

A. I do not remember of that being proposed in the address ; and what we were to do afterwards was to be guided by circumstances ; we were not sure as to that of petitioning any more ; we had not come to our resolution in that point.

THOMAS IVORY

Sworn.—Examined by Mr. BURNETT.

Q. What profession are you of?

A. A watchmaker in Dundee.

Q. Do you know of any societies in the town of Dundee that went by any particular name?—A. Yes, I do.

Q. What names had they?

A. I know the Society of the Friends of the Constitution, and a society under the name of the Friends of Liberty.

Q. Where did the Society of the Friends of Liberty meet at Dundee?—A. In the Berean Meeting-house.

LORD ESKGROVE.—It is fit that I should tell you, that nothing that you can say in point of fact, with respect to yourself, can at all affect you at any future time: you have nothing to fear but to tell the truth.

MR. BURNETT.—Was you a member of the Society of the Friends of Liberty?—A. I was a member.

Q. At what time did you become a member, do you recollect?—A. I cannot be pointed as to that.

Q. A considerable time ago?—A. Yes.

Q. Do you remember, upon any particular occasion, being present at that meeting when a MS. was produced and read?

A. Yes, I was present.

Q. Do you remember what time that was?

A. I don't positively recollect the date; but I think about six weeks ago, perhaps more.

Q. Who was it produced that manuscript?

A. I was not there when it was introduced; it was in a person's hand when I saw it.

Q. In whose hand was it?

A. In George Mealmaker's hand.

Q. What was the tenor of that MS. so far as you remember, what title had it?—A. It was an address to the people.

Q. What was the tenor of it, as far as you remember?

A. I did not attend much to it, as it did not meet much with my own approbation.

Q. Upon what grounds did you disapprove of it?

A. I did not agree to the arguments contained in it, nor the matter contained in it.

Q. What was the matter, so far as you recollect ?

A. I never attended much to the paper. If I was hearing it read, I could probably tell what displeased me in it.

Q. What kind of a paper was it—a pamphlet, or a book, or what ?

A. It was a short address, contained upon a page of paper, I think.

Q. Should you know that address by seeing a copy of it ?

A. I think I would.

Q. Was it a MS. or a printed copy that was produced ?

A. I heard a MS. copy read.

Q. Had you the manuscript in your own hand ?

A. No, never.

Q. Then it is only to the substance of it that you can speak ?

A. I saw that copy once in the town-house of Dundee ; but that was not the copy produced at the meeting, I think.

Q. Read it ?

A. I think this is the copy, at least the substance of the copy.

Q. Are you acquainted with Mr. Fyfe Palmer ?

A. I know him by sight.

Q. Was he present at that meeting ?—A. Yes, he was.

Q. Was there any debate ? Did any of the members speak about the MS. ?

A. Yes, Mr. Palmer spoke with regard to something in the written copy, as being too strong.

Q. Were there any alterations made that were adopted upon that paper ?

A. If I remember distinctly, I think some things were rendered into questions which were in the written copy asserted.

LORD ABERCROMBIE.—Who was it that converted the assertions into questions ?

A. I think Mr Palmer did it.

MR. BURNETT.—Did you hear any thing about printing that paper ?

A. I don't remember of hearing any thing with regard to the printing of it.

Q. Do you know the purpose of that meeting ?

A. I understood the purpose of the meeting was to approve or reject the paper then produced.

Did you remain the whole time of the meeting?

A. No, I remained a very short time.

Q. What passed respecting that manuscript?

A. I don't recollect any thing, except the small alterations I now mentioned.

Mr. M'CONACHIE.—Did they come to the resolution of printing the MS. while you was there?

A. Not that I remember. I think it was to be submitted afterwards to some committee. I think some of the members of the meeting spoke to that purpose.

Q. But you did not stay?—A. No, I staid but a short time.

Mr. BURNETT.—Do you remember seeing this MS. after it was printed?—A. I never saw the MS. after it was printed.

Q. But did you see the paper?

A. Yes, I saw it posted up in different parts of the town.

Q. Did you see any of those printed papers in Mr. Palmer's possession?

A. I do not recollect whether I did or not. I think I never was in Mr. Palmer's company to see him after that night.

Q. Have you had occasion to be acquainted with the hand-writing of Mr. Fyfe Palmer?—A. I have seen it.

Q. Do you think you should know any writing of his that was shown to you?

A. I cannot say that I positively would know; but I might discern a resemblance probably.

Q. Look at those (*shewing him some papers*)?

A. I think it bears some resemblance. I cannot say for these two last ones: I don't think there is any great resemblance.

Q. Look at that (*shewing him the address*)?

A. I cannot speak as to the hand-writing at all.

Q. Are you acquainted with James Ellis at Dundee?

A. I cannot say that I am much acquainted with him; I know him.

Q. Had you ever any occasion to see his hand-writing?

A. Never.

Q. Look at that, (*a letter*) do you know that hand-writing?

A. I think that is like to Mr. Palmer's.

Mr. CLERK.—My Lords, I wish the witness to be removed one

moment : it is not to make any objection to the witness; but I am sure your Lordship will see the propriety of it in what I am about to state.

(The witness ordered to withdraw.)

Mr. CLERK.—I am going to mention to your Lordships a fact that has only come to my knowledge within these two minutes; and, my Lords, it is this, that there is a remarkable resemblance between Mr. Palmer's hand-writing and his brother's hand-writing, who lives in England. Your Lordships must know very well, that that often takes place, that there is a family likeness in hand-writings as well as in faces. I have here some of his brother's hand-writing which I wish to show him, and ask him if that is not Mr. Palmer's hand-writing. I mean to take your Lordship's opinion upon it.

Lord ESKGROVE.—If the Public Prosecutor objected to it, I don't know that the Court could allow it; but I understand they do not object to it, but wish every indulgence to be given.

(The witness called in again.)

Mr. CLERK.—I wish to ask a question or two first. You said you was present at this meeting of the Friends of Liberty when this address was canvassed?—A. Yes.

Q. Did Mr Palmer take a part in the debate?

A. I said before that he spoke of putting what was asserted in the written copy into questions in the printed copy.

Q. Did Mr Palmer propose any other alterations?

A. I think, although I cannot say positively, that he wished also to soften some of the other phrases. I cannot say positively as to that.

Q. Did you propose any alterations yourself?

A. No, I did not.

Q. You disapproved of it yourself?—A. Yes.

Q. Please to look at that writing, do you think that resembles Mr. Palmer's hand-writing?

A. I cannot say I think it does. I never saw any of his hand-writing so large.

Q. Upon what occasion did you ever see Mr. Palmer's hand-writing?—A. He wrote to me once from Edinburgh.

Q. And you knew that that was his hand-writing?

A. No, I never said that I did positively know,

Q. Do you know that that letter which you received from Edinburgh, was the hand-writing of Mr. Palmer?

A. It was signed by Mr. Palmer, and had a strong resemblance to some titles that I have seen on books of Mr. Palmer's.

JAMES MATTHEW

Sworn.—Examined by Mr. BURNETT.

Q. Was you a Member of any society in the town of Dundee?—A. Yes.

Q. What society was you a Member of?

A. The Society of the Friends of Liberty.

Q. Are you acquainted with Thomas Fyshe Palmer?

A. I know that gentleman. I always called him Mr. Palmer.

Q. Did you see Mr. Palmer at any of those meetings?

A. Yes.

Q. Do you remember any MS. being produced at that meeting?—A. Yes.

Q. Do you remember an address to the Friends of Liberty?

A. No, I remember an address to Fellow Citizens.

Q. Was Mr. Palmer present at that meeting?

A. If I remember right he was.

Q. Who produced that address?

A. I did not see it produced.

Q. In whose hand was it?—A. I cannot remember. It went from hand to hand. I believe I had it in my own hand.

Q. Did you hear it read?

A. Not wholly through. I heard it read paragraph and paragraph.

Q. Was there any debate upon it?—A. Yes.

Q. Did Mr. Palmer speak upon that occasion?—A. Yes.

Q. Did you hear what he said?

A. The substance of it was, whether it should be printed or not.

Q. What do you remember Mr. Palmer saying then?

A. I remember he spoke against printing it.

Q. You heard it read, Would you know the paper again if you was to see it, and read it over; was it the printed or the MS. copy that you heard read?—A. A manuscript.

A. Do you know if it was printed?

Q. I cannot say. I saw a printed paper afterwards that I thought was it.

Q. Look at this printed paper, and see whether you think that was the paper you heard read in substance?

A. Yes, I dare say that is the paper.

Q. Where did you see the printed copy? Did you get any printed copies from any person?

A. I had some left at my house one night, when I was not at home.

Q. Do you know who left them?

A. No, I never enquired, and nobody told me.

Q. Did you see any other copies besides those left in your house?—*A.* I have seen several pasted up in the town.

Q. Do you know if the meeting ordered any person to print it?—*A.* I remember there was a desire to get it printed.

Q. Who was desired to get it printed?—*A.* Mr. Palmer,

Q. Did Mr. Palmer undertake to do it?

A. I heard him refuse to write it; they wished him to write it over again, and he refused to do that.

Q. Did any person agree to copy it, or did you see any person copy it?—*A.* No, I did not.

Q. Are you acquainted with a man of the name of James Ellis?—*A.* Yes, I know him.

Q. Was he at that meeting?—*A.* Yes.

Q. Do you know what was the purpose of the society in ordering that manuscript to be printed?

A. The reason was merely to call people's minds to the business of Reform.

Q. Do you know Ellis's hand-writing?

A. I am not acquainted with it.

Q. Did you hear any thing said in that meeting about distributing this paper?

A. It was a general instruction from the meeting to tell every member to distribute it.

Q. Are you acquainted with the hand-writing of Mr. Palmer?

A. I have seen some papers that I have thought was his hand-writing; but I cannot say I ever saw him write.

Q. Look at this letter, and see if you think that is Mr. Palmer's hand-writing?

A. I see a similarity between that and some papers that I have thought were his.

Q. Did you hold any office in the society?

A. Not at that time.

Lord ESKGROVE.—Have you ever been president of the society?—A. Yes, I have.

Mr. BURNETT.—Was you ever in possession of any letter wrote by Mr. Palmer?

A. I cannot tell if I was in possession of a letter wrote by him, because I am not a proper judge whether it was his or not.

Q. Was you in possession of any letter that was signed by a person of that name?

A. I have been in possession of letters signed T. F. P. and T. F. Palmer.

Q. Look at that letter, and see if you were ever in possession of it; look at it, and make yourself certain?

A. I certainly think I have been in possession of that letter.

Q. Did you deliver this letter to any person?—A. No.

Q. Did any person get it in your custody?

A. It was taken out of my pocket-book, if I remember right, by a gentleman that I did not know: his name I heard; he came from Edinburgh.

Q. Where was it?—A. In my own house.

Q. Do you know William Moncrief?

A. Yes, he was present.

Q. Was any person paid for the printing of this paper?

A. I saw it paid one night.

Q. Who was it paid to?—A. It was paid to Mr. Palmer.

Q. And by whom was it paid?

A. It was paid by a member of the society, George Luke, who was treasurer at that time, if I remember right.

Q. Was there a man of the name of Ross that was treasurer there?—A. I don't know.

Q. Do you know if there was any book kept by the Society?

A. Yes, there was one book kept.

Q. Do you know of any leaves being destroyed?

A. The last time that I saw it, it was entire,

Q. Did you know of any leaves being taken out?

A. It was reported so; but I did not know any thing of it.

Lord ESKEROVE.—Would you know the book if you was to see it again?

A. That is nearly the size of the book; but it was thicker, and there was some writing in it.

Q. Do you think this hand-writing is the hand-writing of Mr. Palmer?

A. I think it is something like the letters that I had.

Q. Are they his hand-writing?

A. I cannot make up my mind as to that; only I think it is something similar to what I have thought was his writing.

Mr. BURNETT.—Look at that letter, and see if you can speak as to that; Is that the hand-writing of Mr. Palmer, as far as you know and believe?

A. I cannot say but there is a similarity; one is a letter addressed to Mr. Skirving, and another a fragment of a letter; and the other is a letter to Mr. Ellis.

Q. You speak of a letter in your possession addressed to Ellis?

A. Yes.

Q. How came you by it?

A. I had it from Ellis; he gave it to me about some money transactions.

JAMES MATTHEW Cross-examined by Mr. HAGGART.

Q. You say, that a man from Edinburgh came and took your pocket-book from you—how came he to do that?

A. I was seized some days before, and was obliged to find bail: I was seized on Monday morning after breakfast: I was taken into my own house; he desired me to open my trunk, and he searched the house: he asked me what I had in my pockets; I argued against that; and he told me, if I did not do it peaceably, he must force me; and then took my papers out of my pocket-book.

Q. Did he shew you any warrant that he had for doing so?

A. No.

Q. You said, that this written form of the Address was submitted to the consideration of the meeting.—A. Yes.

Q. Was there any debate upon that?—A. Yes.

Q. What was the nature of the debate, and who took part in it.

A. It was whether it should be printed ; and whether it should be printed in a newspaper, or how ; and concerning some alterations that they wished to make in it.

Q. Which of the members proposed printing it in a newspaper ?

A. Mr. Palmer.

Q. Was he out-voted ?—*A.* Yes. I helped to do so.

Q. Was Mr. Palmer one of the people, or who was it that were for altering the terms of it ?

A. Different people ; and I believe myself likewise proposed alterations.

Q. What sort of alterations did he propose ?

A. The principal design of them was ; as the society had nothing but good intentions, he wished to make it so as to give offence to nobody.

LORD ESKGROVE.—Were they adopted ?

A. They were some of them.

Q. Was Mr. Palmer out-voted in those softening alterations ?

A. In some of them he was.

Q. What was Mr Palmer's reason for putting it in the newspapers ?

A. The principal reason that he assigned, was the saving of expence.

MR. CLERK.—Do you know who made the original draught of the Address ?—*A.* I know who owned it to be theirs.

Q. Who was it ?—*A.* George Mealmaker.

Q. What did Mealmaker do, or say at this general meeting, when the Address was under consideration ?

A. He spoke of it just as a man would, who had a work of his own under consideration.

Q. Do you remember any thing particular, that he said ?

A. Nothing particular, more than in a general way acknowledging it to be his ; when alterations were proposed, he defended the original copy.

Q. Did he defend it with obstinacy ?

A. Sometimes, he certainly defended it with a good degree of obstinacy ; he was anxious to have it continued as it was.

Q. Was there any of the meeting that suspected it was an illegal paper ?

A. No. I believe not, for my own part, I had no thought of it.

Q. What purpose did you mean to accomplish by it ?

A. My own idea was to call the people's attention to the object of a Parliamentary Reform.

Mr. M'CONACHIE.—What did you understand, when you desired the people to gather round the fabric of liberty to support it ?

A. What I understood by it was, that it was just to join in petitioning Parliament.

Q. What did you mean by telling them, that it was in vain to petition Parliament, that you were not disappointed by the decision of the House of Commons concerning your petition, and that it was a question you did not expect, (though founded on truth and reason,) would be supported by superior numbers ? Was that encouraging people to present another petition ?

A. What we meant by it was, that we thought we could not get it this Session ; but we were not so much disappointed, as not to endeavour to petition again next Session.

Q. Was it pasted up in Dundee in several places ?—A. Yes.

Mr. HAGGART.—This gentleman asked you the meaning of one passage of this paper, but you will be so good as answer me, and tell me what you mean by different passages of it. In the second paragraph ' In spite of the virulent scandal,' &c. [*See copy of the Address, in the Indictment p. 7.*]

A. Our idea was, that, as we thought the representation in Parliament was now confined to a few, instead of being general, if people could get it more general it would be better.

Q. Now the next paragraph—' Is not every new day adding,' [*See copy of the Address, in the Indictment, p. 7.*]

A. That was just what we thought ; that there was a coalition against us ; and that there was a proof, that they were not so ready to listen to us as they ought to be.

Lord ESKGROVE.—You cannot go through these paragraphs in this way ; we cannot hear his opinion of them.

JAMES ELLIS, JUN.

Sworn.—Examined By Mr. M'CONACHIE.

Q. Where have you resided for some time past ?

A. In the House of Mr. Palmer.

Q. Where?—A. In Dundee.

Q. Are you a member of any of the societies in Dundee?

A. Yes I am a member of both of them.

Q. How long have you been a member of those two societies?

A. I have been a member of them about eight weeks.

Q. Is Mr. Palmer a member of them?

A. He is a member of one of them.

Q. Was he admitted before you?

A. I believe we were both admitted the same night.

Q. Do you remember what passed that night?

A. Yes. The chief thing was an Address to be presented to our fellow citizens.

Q. What was the title of that Address?

A. I don't recollect that it had any title.

Q. Was it in manuscript?—A. It was.

Q. Do you know whose hand-writing the MS. was?

A. I certainly do know whose it was. I am certain it was in the hand-writing of a lad of the name of George Mealmaker.

Q. Was all of it his hand-writing?—A. Yes.

Q. Were there any alterations in any other hand-writing?

A. Yes. There was one word.

Q. Had you it in your hand?—A. I had

Q. Did you read it? A. Yes.

Q. And it was all his hand-writing, except one word.

A. It was.

Q. What was that word?

A. Either *hawling*, or *dragging*; I cannot say which.

Q. Whose hand-writing was that?—A. I cannot tell.

Q. Did the society make any alterations in it?—A. Yes.

Q. In whose hand-writing were they made?

A. I cannot recollect.

Q. Were any of them made by Mr. Palmer?

A. Not that I know of.

Q. You was there all the time, was not you?

A. Yes. I recollect that several people had the Address in their hands, and several people had pens in their hands; but I cannot say who made the alterations.

Q. Was it ordered to be printed by the meeting?—A. It was.

Q. And who undertook to print it?—A. I did.

Q. Did any body else say any thing about it?

A. Mr. Palmer said he could safely get it printed; and I am not certain whether he undertook it, but we were both together.

Q. Was it delivered to you, or to Mr Palmer?

A. It was delivered to me. I wrote a copy for the press, and left the original copy lying in Mr. Palmer's house; and I don't know what became of it afterwards.

Q. What became of your copy?

A. I was taken ill, and I don't know what became of it.

Q. Did you ever see it after it was printed?

A. I have seen it several times since it was printed.

Q. Have you seen it in Mr. Palmer's house since?—A. Yes.

Q. Do you know whether it was paid for, or not?

A. I don't know.

Q. Do you know whose printing office it was printed at?

A. No.

Q. You never heard?—A. No.

Q. Did you inform the meeting, that you knew a person who would print it?

A. I informed the meeting, that I would get it printed.

Q. Was there any person that you and Mr. Palmer had agreed upon should print it, after you had wrote it?—A. No.

Q. You left the manuscript?—A. Yes.

Q. You had no conversation with Mr. Palmer about the printing of it afterwards?—A. None.

Q. Is that your hand-writing?—A. Yes, I believe it is.

Q. Was that the copy you wrote for the press?

A. I will not pretend to say that.

Q. Did you write no other copy?—A. No.

Q. Then that must be the copy you wrote for the press.

A. Certainly.

Q. Look at the date; is that your hand-writing?

A. No, that is not my hand, I think.

Q. Whose hand is that, to the best of your knowledge and belief?

A. I am sure I could not say whose hand-writing that is.

Lord ABERCROMBIE. You are upon oath; and if there is no

absolute certainty, you are bound to tell the Court and Jury what your belief is?

A. My Lord, I can only believe a thing that I know to be certain; and, if I have but slight grounds for my belief, it is rather supposition than belief.

Q. You are really bound by your oath to tell all that you believe, with regard to that letter; and, as to the hand-writing, you are bound to tell it; and if you do not tell it, you swear falsely?

A. My Lord, I am so conscious of the seriousness of the oath I have taken, that I am really not to say any thing but what I know, because I may be vastly mistaken.

Q. You may be mistaken, but you are bound to tell what your belief is?

A. I can only say, that it is like Mr. Palmer's writing, but I can say nothing further.

Q. Look at that letter; did you ever see that letter before?

A. I don't know whether I ever did or not.

Q. That is a letter addressed to you; you are desired to read it; and, having read it, you are desired by the oath of God to say, whether you ever saw it before or not?

A. I can only say, that I have seen a letter similar to that.

Q. Similar in writing?—*A.* Yes.

Q. And similar in matter?

A. Yes; but I vastly dislike suppositions.

Q. Do you believe it to be the same letter?

A. It has every appearance of it.

Q. Do you believe it to be the same; if you do believe it and don't say it, you are guilty of perjury, and the Court will act with you accordingly? The question to you is a plain one; Do you believe the letter in your hand to be a letter which you have formerly received?

A. I received a letter from Mr. Palmer similar to that, but this direction here, I believe, is different; and therefore I am not to go upon a thing that I am not absolutely certain of. I rather think that the letter, that I received from Mr. Palmer, was not addressed to Mr. Ellis.

Q. You are, upon your oath, bound to say, whether you

think it is that letter that you received from Mr. Palmer, yea or no?—*A.* I have told your Lordship my reasons for doubting it.

Q. I really must caution you; you now stand upon the brink of a precipice: you say, you received a letter from Mr. Palmer, the substance of which appears to be the same with that, and the hand-writing appears to be the same; now, what became of that letter which you received from Mr. Palmer?

A. I gave it to James Mathew.

Q. Did you never get it back from him?—*A.* No.

Q. Did he ever tell you what he made of it, or what became of it?—*A.* I don't recollect his ever telling me where it went.

Mr. M'CONACHIE.—Did you ever hear or not what became of it?

A. Yes, I have heard from the report of the town, which every body heard, that it was delivered to a man who came from Edinburgh to Dundee.

Lord ABERCROMBIE.—For your own sake, I must again put that letter into your hand to read it over again, and say upon your great oath, whether that is the letter you received from Mr. Palmer, yea, or no, and which you gave to James Matthew; and you will attend to the date of it, and to the recent date of it. Now do you, or not, believe that letter to be the same letter that you received from Mr. Palmer, and which you gave to James Matthew?

A. I believe it is. I have now reason to think it is.

Q. Why did not you say so before?

A. Because I want to go upon absolute certainty.

Mr. M'CONACHIE.—Look at that paragraph; is it with regard to a Printer?—Do you know any thing about the Printer?

A. I have heard reports.

Q. You are quite ignorant from that letter, who is the Printer of it?—*A.* I am quite ignorant of it.

Lord ABERCROMBIE.—(*reads.*) My letter to Smiton, and part of my letter to the Printer's brother are in evidence against me. Now, will you say that Mr. Palmer never told you who was the Printer?—*A.* No.

Q. Did he never write to you who was the Printer?

A. No, he speaks of the Printer's brother.

MR. BURNETT—Do you know your own hand-writing when you see it?—*A.* Yes.

Q. Is that your hand-writing? (*Shewing him a letter.*)

A. Yes, indeed is it.

JAMES ELLIS, JUNIOR,

Cross examined by Mr. HAGGART.

Q. Do you recollect being in company with Mr. Palmer some time in the month of June last? Where is Mr. Palmer's house?

A. In the town of Dundee.

Q. Is it up a closs?

A. Yes, it goes by the name of the Methodist Closs.

Q. Was you in Mr. Palmer's house in the month of June last?—*A.* I don't think I was.

Q. Do you recollect Mr. Palmer and you coming out of his house together?—*A.* I don't recollect that.

Q. Was you ever in company with Mr. Palmer in the month of June last, when any people stopped you and him in the street?

A. I remember being in company with him, when somebody stopped us in the closs.

Q. Do you recollect who stopped you?

A. George Mealmaker was one.

Q. What is he?—*A.* A weaver in Dundee.

Q. One of the witnesses here?—*A.* Yes.

Q. Do you recollect any other name?

A. Yes, there was one Alexander Wood.

Q. Is he a witness too?—*A.* Yes.

Q. Was there any other body?

A. I believe there were one or two, but I don't recollect their names.

Q. Do you remember what passed upon that occasion?

A. Yes, Mr. Palmer and I were going up to Mr. Palmer's house, and those people stopped us in the closs, and George said to Mr. Palmer, I belong to a Society of the Friends of Liberty that meet in this Berean Meeting-house above here, and told Mr. Palmer at the same time, that they intended to publish an Address to their fellow citizens, and that they would be very glad of Mr. Palmer's assistance in it. Mr. Palmer asked them

what number of you meet there, and what are they that compose your society; and Mealmaker, I think it was, answered; says he, there are a vast number that belong to the society, but there are not more than 30 that regularly meet there; and we are composed chiefly of tradesmen and labourers. Then, says Mr. Palmer, you are so few in number; I think it is a great folly in you to think of publishing any thing; it would answer very little purpose, and would only bring an expence upon people that are little able to bear it; and Mealmaker said, we are not like the other society, for we have money by us, and we will publish it. Mr. Palmer said, he thought it was folly to publish any thing at present, that it would be only putting them to an unnecessary expence, and he advised them to publish nothing; and he made that answer, that they had money by them, and were determined to publish. Then I went back with them, and said, if you are determined to publish, I think two or three of you should draw up an Address, and bring it with you; and that which best pleased the society, should be adopted—and we parted upon that; however, I asked Mr. Palmer to be so good as attend their next meeting.

Q. Was not Mr. Palmer a member?

A. No, he was not at that time; they asked it as a favour that he would attend their meeting.

Q. Did Mr. Palmer accordingly attend, do you know?

A. I believe he did. The next day I said to Mr. Palmer, Have you written any thing for these lads yet? And Mr. Palmer said, No; he did not intend to write any thing; he thought it was only bringing an expence upon them that they were little able to bear. I said, I think you are vastly mistaken, there is very little written upon that subject; and I wish you would write something; and I asked him day after day to do it, and he always put it off. He went to the Society; and when he came back, I asked what they had done; and he said some of them had given an address to him to look over and correct. I determined to go to the next meeting; and I saw Mr. Palmer deliver back this address to Mealmaker into his hand, and he said, as I am not a member I have not taken the liberty to alter a single word but one.

Q. What word was it?

A. Something about hawling or dragging; except, says Mr. Palmer, what relates to the grammar and to the spelling. Mr. Palmer said, at the same time, I would not have you publish this; at least, says he, if you do, it must be materially altered; and Mealmaker said, when I wrote that address, I was conscious to myself that there was not one word in it but was true; and, if it is materially altered, I will scratch out my name in the book. After that, Mr. Palmer desired that it should be debated, clause by clause; but it was first put, whether they should publish or not? which was carried; and the next question was, what they should publish? and then they debated it, clause by clause; and a number of alterations were made.

Q. Who took a part in it?

A. Myself and Mr. Donaldson. Mr. Donaldson suggested a motion to me.

Q. Did any body take part in the debate besides yourself and Mr. Donaldson?

A. Mr. Palmer took part in it.

Q. What was the nature of the part that he took in it?

A. Mr. Palmer desired them frequently, If you do publish, you must soften a number of those phrases; not, says he, but I believe that every word in it is as really true as the gospel, but the people in power will be vastly ready to make a handle against you: he said, that it might be laid hold of by the people in power, and they would get into trouble.

Q. What was the avowed intention of the meeting in publishing that paper—what was their object?

A. Their object was to induce their neighbours to join with them, to procure a Reformation in Parliament by all peaceable means,—to awaken the minds of the people, that they should join together, and petition the Legislature for the removal of what we consider as grievances.

Q. What were the Reforms you pointed at?

A. A more equal representation of the people. He earnestly advised them not to publish at all, but, if they did, every word that was offensive he desired to be altered; and it was often carried against him; and, when put to the vote, they were ordered to stand.

Q. It was George Mealmaker who wrote this paper ?

A. Yes.

Q. How do you know that he was the person that wrote it ?

A. He says to Mr Palmer when we were going out, I would thank you to write over a clean copy for the press, for my hand is not easily read ; and he asked me to do it, and I did it.

Q. Did you see Mr. Palmer return it to Mealmaker ?

A. Yes ; I did it at the next meeting.

Q. Did Mr. Palmer pay the expence of publishing this paper ?

A. I saw Mr. Palmer get the money in the Society one evening for publishing it—it was paid in my presence.

Mr. M'CONACHIE.—I asked him before, and he said he knew nothing about the payment of it ?

A. I believe not—if I did say so, I was under a vast mistake.

Mr. HAGGART.—What did you understand to be the meaning of that address ? Did you suppose it to be any thing further than for a Reform in Parliament ? or what was your opinion of it ?

A. I can only answer for myself, that there was no seditious intention in it ; for I made a motion afterwards, that a name might be put to it, for as there was no name to it, they would say we wished to steal into the world ; and we were sorry that those in power should think that we meant any thing wicked.

Lord ABERCROMBIE.—In what capacity did you live with Mr. Palmer ?—A. As a visitor merely, nothing further.

ALEXANDER MORRIN

Called in.

(Ordered to withdraw.)

Mr. CLERK.—I object, that no such person is cited as a witness upon this trial :—There is a Mr. Moran cited as a witness, but not the person who was in the presence of the Court a little time ago ;—the name is spelt wrong ; there is a variation of one letter.

Mr. BURNETT.—I submit to your Lordship, that this is the same objection that was repelled by the Court in the outset.

Lord ABERCROMBIE.—It is no objection at all.

(The Witness sworn. Examined by Mr BURNETT.)

A. Do you remember being in possession of any printed address to Friends and Fellow Citizens ?—A. Yes.

. How many of them had you in your possession ?

A. I had what they called 1000 copies in my possession.

Q. Where did you get them from ?—*A.* From the printer.

A. Do you remember, upon your oath, and think before you answer the question that I am to put to you,—What printer did you get them from ?—*A.* From my brother.

Q. What is his name ?—*A.* John Morrin.

Q. Was he the printer of them ?—*A.* I believe so.

Q. Do you know by whose orders these papers were printed ?

A. Yes.

Q. Who ordered them to be printed ?

A. It was Mr. Palmer.

Q. How do you know that ?

A. I got a letter from him; but I don't know whether it is his hand-writing or not.

Q. Had you ever received any letters from him before ?

A. Yes, but I never saw him write.

Q. Did you think that it came from Mr. Palmer ?—*A.* Yes.

Q. Was it signed by Mr. Palmer ?

A. Yes; it was signed with his initials.

Q. Was there any manuscript copy sent to you to get printed ?—*A.* Yes.

Q. Who sent it ?—*A.* Mr. Palmer.

Q. Look at that paper, and see whether that is it or not ?

A. Yes; it is.

Q. Did that piece of a letter come with it ?—*A.* No.

Q. Look at that ?

A. This is the paper that came along with it.

Q. When did you get this; before or afterwards ?

A. I think I got it before.

Q. Are you sure you got it at all ?—*A.* I think so.

Q. Look again, and be certain whether you got it or no ?

A. I got it before, but there was nothing printed from it.

Q. Do you know any thing about the tearing of these letters ?

A. No, I know nothing about it, except by accident: I did not think they were of any consequence.

Q. What became of them after you got them? were they torn while they were in your possession ?—*A.* Yes; I suppose so.

Q. How got they out of your possession?

A. The officers came and searched my shop; and I actually did not know there were such papers.

Q. Do you observe any alterations made in them since?

A. No.

Q. Was the manuscript got at that time?

A. Yes, upon the search.

Q. Was you present at the search?—A. Yes.

Q. Had you any directions to destroy the letters, or the manuscript, either the one or the other?

A. No; I had no orders to destroy them.

Q. Not from any body?—A. No.

Q. Look at that; what is it?

A. A paper that was found by the officers in my possession.

Q. Did you send off the principal?—A. No.

Q. It was intended to have been a letter?—A. Yes.

Q. To whom?—A. To Mr. Palmer.

Q. What did you do with the 1000 copies that you got from your brother?—A. I sent them, as desired, to Dundee.

Q. Did you send them all to Dundee?

A. I kept 120 copies.

Q. You sent the rest to Dundee?

A. Yes; I was desired to give 100 copies to Mr. Skirving.

Q. And you kept them for him?—A. Yes.

Q. And did he get them from you?—A. Yes.

Q. Did he call for them, or send for them?

A. He sent for them.

Q. To whose address did you send those that you sent to Dundee?—A. The person that desired me to get them.

Q. Who was that?—A. Mr. Palmer.

Q. Which way did you send them?—A. By the carrier.

Q. Did you send 900 to Dundee then?

A. I imagine so; I did not count them.

Q. Did Mr. Skirving get the whole 120?

A. No; he got but 100.

Q. What became of the 20?

A. They were left in my shop.

Q. Did you part with any of them?

A. Yes; I gave some odd ones of them away.

Q. Did Mr. Palmer apply to you afterwards about them?

A. No.

Q. Did you ever hear from Mr. Palmer after he had got the rest of the 1000 copies?—A. No.

Q. Did you get any payment for them from any person?

A. No.

Q. Do you know if your brother was paid?

A. I cannot tell.

JOHN MORRIN

Sworn.—Examined by Mr. M'CONACHIE.

Q. Was you employed to print an address to the Friends of Liberty at Dundee?—A. Yes.

Q. Who employed you?—A. My brother.

Q. How many were printed?

A. 4 or 500, I imagine.

Q. Was you paid for it?—A. No.

Q. You never was paid?—A. No; never.

Q. Did you know who employed you?

A. It was my brother.

Q. Did he promise you payment?—A. Yes.

Q. Do you know who set him upon the business?—A. No.

Q. Did you ever ask him?—A. No.

Q. Did you send him all that were thrown off?—A. Yes.

Q. Did you debit him in your accout-book for them?

A. No; I have no accout-books.

Q. Look at that; Is that the one that you printed?

A. It looks like it; another might print it just in the same manner.

Q. Look at that: Is that the manuscript that you printed from?—A. I dare say it is.

GEORGE M'INTOSH

Sworn.—Examined by Mr. M'CONACHIE.

Q. You are a clerk to Mr. Handiford in Edinburgh?

A. Yes.

Q. Do you ever remember getting a copy of a printed address?—A. Yes, I got many a one.

Q. What address is it? Is it an address to Friends and Fellow Citizens?—A. I would know it if I saw it.

Q. Look at it?—A. Yes; I have seen that paper.

Q. Had you them in your possession?—A. Yes.

Q. Who gave them you?

A. Mr. Morrin; he gave me only one.

Q. Did you see any more copies of that address?

A. Yes, in Sheriff-Clerk's chamber.

Q. No where else?—A. No.

WILLIAM MIDDLETON

Sworn.—Examined by Mr. M'CONACHIE.

Q. Was you employed to search the house of Mr. Skirving?

A. Yes.

Q. Who was with you?

A. Mr. Dingwall, Mr. Joseph Mack, and Andrew Scott, a Sheriff's officer.

Q. Was Skirving present?—A. Yes.

Q. What did you find in that search?

A. There was a letter found in a writing-desk, said to be wrote by Mr. Palmer to Mr. Skirving.

Q. Is that the letter (*shewing it to him*)?—A. Yes.

[*It is read, addressed to Mr. Skirving, dated Dundee, July 9. 1793.—See Appendix, No. 7.*]

Q. You found that letter in the house of Skirving?

A. Yes, in a writing-desk and bureau.

Q. Look at that paper?—A. There were several copies of that delivered to me by Mr. Skirving.

Q. You was likewise employed to search Morrin's shop?

A. Yes.

Q. Morrin was present?—A. Yes.

Q. Did you find any copies of that paper in his house?

A. Yes; a few.

Q. Are those the papers you found in his house?—A. Yes.

EDWARD LESLIE,

Sworn—Examined by Mr. BURNETT.

Q. You are a stationer in Dundee?—A. Yes.

Q. Do you remember of receiving a letter from a Mr. Rose?

A. Yes.

Q. At what time did you receive it?

A. I cannot charge my memory with the time.

Q. Do you remember the direction of the letter?

A. It was directed to me, but addressed to another man.

Q. Do you remember having in your possession any printed copies of an Address, to Friends and Fellow Citizens?—*A.* Yes.

Q. Who did you get those printed copies from?

A. From Mr. Palmer.

Q. Can you tell what time this was?

A. I cannot recollect the time.

Q. In what way did you get them?

A. He gave me them with his own hand.

Q. How many copies?—*A.* I never counted them.

Q. How many do you suppose?—*A.* I can form no idea of it.

Q. Were they put up in a bundle?—*A.* No.

Q. Were there two copies or more?

A. There was more than half-a-dozen of them; and I locked them by.

Q. What did Mr. Palmer say to you, when he gave you them?

A. Nothing at all.

Q. For what purpose did you suppose he gave them you?

A. I supposed, to give away.

Q. Did you give them away?

A. Two or three copies I did, to the best of my remembrance.

Q. What became of them?—*A.* I burnt them.

Q. What made you burn them?

A. Because I thought it was not safe to have them in my custody.

Q. Do you know whether Mr. Palmer gave them to any body else?—*A.* I believe he gave some to Mr. Miller, the bookseller.

Mr. HAGGART.—You say you burnt these copies, had you heard of any searching?

A. It was after Mr. Palmer was taken up, that I burnt them.

DAVID MILLER,

Sworn—Examined by Mr. M'CONACHIE.

Q. Look at that—did you ever see a copy of that production before?—*A.* Yes; I have.

Q. Upon what occasion did you see it?

A. It was brought into my shop, by Mr. Palmer.

Q. Were there any considerable number of them?—A. A few.

Q. Were there half-a-dozen?—A. I dare say there was that.

Q. A dozen?—A. I cannot say, for I did not count them.

Q. Did you get any orders from Mr. Palmer, relative to it?

A. No; upon my oath I cannot say that I did.

Q. What did he say?

A. He said, there was a wonderful thing, he believed to be the production of a common weaver.—I supposed that they were to be given away.

Q. Did you understand when you got them, that they were to give away?

A. It was natural to suppose so, when they were brought to me in that way,—Mr. Palmer did not say they were to give away.

Q. Did you distribute any of them?

A. Not to my knowledge.

Q. What did you do with them?

A. I took them off my counter; and, there is a board that covers over where I cut my paper; I put them in there; and some little time after burnt them.

Q. Why did you burn them?

A. I did not like them: I suspected that some mischief might arise from them.

Q. You did that, before any notice was taken of them.

A. I cannot say, whether it was or not—they lay in my shaving tub some considerable time.

JAMES SMITON,

Sworn—Examined by Mr. M'CONACHIE.

Q. Did you receive that letter? (*Shewing it him.*)—A. Yes.

Q. Who is it wrote by?

A. I suppose it is written by the person who signs it.

Q. Who signs it?

A. It is signed T. F. Palmer, but I don't think it is his signature.

Q. What makes you think it is not his signature?

A. I think the name has been added; I am pretty positive it has.

Q. Did you give that letter to the sheriff of Fife?—A. Yes.

Q. Was not Mr. Palmer's name to it, when you put your subscription upon it?

A. The initials were, but not the full name.

Q. That you say upon your oath, that the initials only were there, and not the full name?—A. Yes.

Q. Do you know who put it there?—A. No.

Q. What were the initials?—A. T. F. P.

Q. Look again, and be certain before you speak: now, remember you are upon your oath; and you are asked that question. Consider before you speak?

A. I will not swear to the letters, but I will swear that the name was not at full length.

Lord ESKGROVE.—You say upon your oath, that there was nothing but the initials when you received it?—A. Yes.

Mr. M'CONACHIE.—Do you know Mr. Palmer's hand-writing?—A. I never saw him write.

Q. Have you ever received letters from him?—A. Yes.

Q. Is that the same hand-writing with the other letters you received?—A. Yes; I think it is.

[The letter read.—See Appendix, No. 8.]

Q. Did you receive any copies of the printed paper with that letter?—A. Yes.

Q. How many?—A. I did not count them.

Q. Were there a dozen?—A. I believe there might, but I did not count them.

Q. Did you read the address?—A. Yes.

Q. Did you give them away to any body?—A. Yes.

Q. Who did you give them to?

A. I gave one to a Mr. Harwood, one to Mr. Fisher, and one to James Blyth, and one to John Ballingall; and I don't recollect that I gave any to any body else.

Q. Who sent you them?

A. They came with a letter.

Mr. HAGGART.—In that letter, which is said to have been written by Mr. Palmer to you, some pamphlets are mentioned

and recommended in it ; what was the nature of those pamphlets ? were they of a religious or of a political kind ?

A. One was a religious pamphlet, and the other a political one. One was an address to Protestant Clergy, entirely on the subject of religion ; and the other was Horne Tooke's Trial.

Mr. BURNETT.—Gentlemen, The parole evidence on the part of the Prosecution being now closed, there are several papers which will be read to you in evidence, and amongst others the declaration of Mr. Palmer himself.

Mr. Palmer's Declaration read.—See Appendix, No. 9.

Two Fragments of Letters found in the possession of Alexander Morrin, read, No. 10.

Letter from Alexander Morrin to Mr. Palmer read, No. 11.

Letter to James Ellis, found in Matthew's pocket-book, read, No. 12.

Mr. BURNETT.—The evidence on the part of the Prosecution is now closed, both parole and written.

EVIDENCE ON BEHALF OF THE PANNEL.

WILLIAM STEWART

Sworn.—Examined by Mr. CLERK.

Q. Where do you live ?—*A.* In Dundee.

Q. Do you know of any societies there ?

A. Yes ; I know of two there.

Q. Is there a society there named the Friends of the People ?

A. The Friends of Liberty.

Q. Are you a member ?—*A.* Yes.

Q. How long have you been a member ?

A. I don't recollect rightly, but I have been for some time.

Q. Do you know Mr. Palmer ?—*A.* I have seen him.

Q. Was he a member of the society ?

A. Yes ; he was a member for some time.

Q. Do you recollect when he was admitted ?

A. No, I don't recollect what day of the month it was.

Q. Was you a member of the society or Mr Palmer first ?

A. I was first.

Q. Do you remember any address that was published by this society?—A. Yes; I do.

Q. Do you know who drew up that address?

A. It was drawn up by the society.

Q. Do you know who proposed it first?

A. No, I don't recollect who proposed it first.

Q. Do you recollect of being alone with one or two of your companions of the same society, and of meeting with Mr. Palmer in the Methodist Cloths?—A. Yes.

Q. Who was with you?

A. Two lads, George Mealmaker and David Wood.

Q. What did you say to Mr. Palmer concerning the objects of the society?

A. I don't recollect what passed that night; but we gave him an invitation to come to the meeting.

Q. Was Mr. Palmer a member of the society at that time?

A. No; he was not.

Q. Did Mr. Palmer go with you?

A. No; we had no meeting that night.

Q. Was there a meeting of the Committee soon after?

A. Yes.

Q. Was you present at that meeting?—A. Yes; I was.

Q. Was there any draft of an address produced that evening?

A. There was one laid upon the table that evening.

Q. Do you know who composed it?

A. I don't know rightly who composed it; but, as far as I know, I think it was George Mealmaker.

Q. When you consulted Mr. Palmer upon that subject, did he advise you to compose the address, or not to compose it?

A. I don't recollect if he advised us that night or not.

Q. Was he for publishing an address or not?

A. He was for publishing it in the newspapers only.

Q. Was he for publishing it in the newspapers at that time or afterwards?—A. It was afterwards.

Q. What do you mean by afterwards?

A. At a meeting afterwards.

Q. What sort of a meeting was that which took place afterwards?—A. A weekly meeting.

Lord ABERCROMBIE.—A general meeting, or a committee meeting?—*A.* A general meeting, held once a week.

Mr. CLERK.—On the night that you met with Mr. Palmer was there any body with him?

A. There was another lad with him, but I don't know who it was.

Q. Did you see him to-day.

A. It being dark, I did not take notice of him.

Q. Did you propose to Mr. Palmer to write this address?

A. It was proposed before that time that an address should be made out by the Society.

Q. But did you urge Mr. Palmer to write the address?

A. No.

Q. Did Mealmaker or Wood urge him to it?

A. I cannot recollect that.

GEORGE LUKE

Sworn.—Examined by Mr. CLERK.

Q. Where do you live?—*A.* In Dundee.

Q. Do you know of any societies in Dundee?—*A.* Yes.

Q. Do you belong to any of them?

A. Yes; I belong to the society in the Berean Meeting-house.

Q. Was you an officer in that society?—*A.* Yes.

Q. You was treasurer, was you?—*A.* Yes.

Q. Do you recollect an address to Friends and Fellow Citizens being proposed in the society?—*A.* Yes.

Q. Was it proposed to be printed?—*A.* Yes.

Q. Was it debated in the society, Whether it should be altered and amended, or whether it should be published?

A. Yes, I believe it was.

Q. Do you recollect of Mr. Palmer taking any part in that debate?—*A.* Yes.

Q. Did Mr. Palmer speak?—*A.* Yes.

Q. Did he make any objection?

A. Yes, he wanted it not to be printed in a Hand Bill.

Lord ABERCROMBIE.—Did he wish it printed any other way?

A. I don't recollect.

Mr. CLERK.—Do you recollect any alterations being made in the course of the debate?—*A.* I don't know.

Q. Was you there during the whole of the debate?

A. Yes; but I was not in office at that time; I went out, I believe, before it was all debated.

Q. Do you know George Mealmaker?—*A.* Yes.

Q. Did he speak in the course of the debate?

A. I don't properly recollect that.

MR. BURNETT.

Gentlemen of the Jury—Gentlemen, in discharging this part of my duty, which requires of me to state to you the purport of the evidence which has been laid before you in this case, upon the part of the Prosecutor, I know, I will meet with this concurrence of sentiment in all of you, that this is a truly important case; when you consider the nature of the offence charged against this Panel, and when you consider the party himself, who now stands at the bar, and I will add, the consequences of a verdict which you may pronounce in this case, the consequences which it may have upon the minds of the people at large.

Gentlemen, the crime stated in this indictment is properly that of sedition, committed by writing, and composing, and circulating a seditious and inflammatory paper, calculated to create a spirit of opposition to the established government, to raise a ferment in the minds of the people, and to bring along with it all those evils that popular fury and insurrection occasions.

Gentlemen, this offence, when all the evils attending upon popular fury and insurrection are considered, I am confident all of you will join with me in thinking, it is an offence which stands foremost in the list of human crimes; for your own experience may teach you,—history, and that of a very modern date, may teach you, that when people are once roused, especially upon subjects of politics, there is no outrage, however wild, that may not be committed. He, therefore, that is the author and instrument of sedition, in whatever way it is applied, he ought rightly and properly to be considered as the author, and the committer of all those crimes, that sedition naturally begets; and he that attempts to commit it is guilty of an offence which every civilized state in Europe, or in the world, must, and do punish with severity.

Gentlemen, it will be in the recollection of all of you, that much about the same period last year, there were in almost every corner of the kingdom, the most dangerous symptoms of a seditious spirit, which manifested itself in a variety of shapes, in the other part of the united kingdom. It is well known that productions were sent forth to taint the minds of the people, filled with every argument that falsehood, perfidy, and treason could hatch, to excite the minds of the people to outrage and violence. One of these productions, with a purpose but too plain, was levelled against the private characters of some of the most respectable persons in the State, without excepting the Supreme Magistrate himself, and loading them with abuse. And, in this part of the kingdom the same spirit shewed itself, under pretence of reform, that insidious catch-word, in the mouths of those, who, when the public or private characters are considered, have the least title to use them, and by seditious and tumultuous meetings, endangered even the life of one, whom this country will acknowledge as its greatest benefactor. Those disturbances which certainly did create a very serious alarm in the minds of every peaceable and well disposed subject, created a dread, that similar disasters might take place here, which have taken place in another kingdom, that the system of government would be here followed, that has taken place in that kingdom, and which is certainly a most unexampled scene of wretchedness and misery. I say those insurrections which created those alarms were, by the timely assistance of the body of the State, fortunately got under, at least so far, that those who had been so industrious in their patriotic pretences, were much less industrious in their seditious attempts; for whatever colour they might give to their proceedings, they unquestionably had that scope and tendency; and the better and more respectable part of the community concurred to put down that spirit, which was so strong, so unequivocal, and effectual a display of the general sense of the nation, that it was not to be expected that any man, in whatever situation he was placed, would be so wicked, and so madly foolish, as to attempt afterwards to excite that spirit. If I am not, however, much mistaken, the evidence you have heard this day does evince, that there were some persons, and those not in a very obscure situation

in life, who were actuated by that wickedness, and by that madness of folly.

Gentlemen, what the conduct of the Pannel may have been, antecedent to his writing, and circulating this paper, which is the subject of the trial, I am not at liberty to state; though, if you may judge from the association to which he belonged, and which, whatever name it may have borne, and the name itself is an ominous name, the association of the Friends of Liberty, I say, was intended solely for seditious purposes. I say, if you judge from the company he kept, you will not suppose, that his conduct, antecedent to this publication, was any other than is clearly evinced by the proof in this day's trial; and it will not aid him much, in saying, that his intentions were not those named in the indictment; that he bears the character of a clergyman, but whose religious tenets are as hostile to the established doctrines of the country, as his political ones are to the established government of the country.

Gentlemen, when that is the nature of the offence charged against this Pannel, when you take along with you also the effects which this same spirit may have had upon the minds of the people, and when you take also along with you that that spirit, which once manifested itself in this country among a certain class of people, though got under, is not altogether put down, and when you also take into consideration, that the verdict which you may this day pronounce, whatever it may be, will not pass unnoticed in any corner of the kingdom, I am sure you will give to this evidence that attention which it so justly merits, and will judge of it under this impression, that you are discharging a most necessary and important duty—to the public at large—to the constitution of this country—to that constitution under which you and your fathers have long lived happy and secure; that constitution, and that fabric of government, which has withstood many a tempestuous day, and many a political convulsion, and which it ought to be the prayer of every good subject, that it may long continue, and that you yourselves may long enjoy that government, with the same security, and the same protection.

Gentlemen, the charge which is contained in this indictment may be said to be threefold; it is that of being the author and the composer of the paper, stated in this indictment to be sedi-

tious ; and there is also charged against this Pannel, the printing, and causing to be printed ; and the circulating, and causing to be circulated this paper.---And, Gentlemen, in judging how far the evidence brought upon the part of the Prosecutor establishes all and each of these different offences, the first preliminary thing which falls for you to consider is, whether or not the paper, which is the *corpus delicti* in this case, which is the very foundation of the trial, is or not of the description stated in this indictment ? You have heard it laid down by the Honorable Judges, who stated their opinions upon the relevancy of the indictment, that you ought to consider, not only the mere fact of circulating, but whether or not the paper, said to be circulated, is, or not, of a seditious tendency---that is your province, as much as it is to judge of the mere act of circulating. Indeed before a Jury can judge of the guilt, or innocence of a party, charged with an offence of this kind, they must take into their consideration the nature of the Hand Bill ; and, if you are satisfied that this paper is not seditious, there is no occasion for you to enquire whether the printing is proved, or the circulating is proved ; because, if the paper is innocent, no act of the Pannel with regard to it can be considered as criminal. You Gentlemen then are to consider, whether this paper is or not of that description. In the former part of this trial, you had occasion to hear a very long argument indeed, with respect to this preliminary point, whether this paper is, or is not seditious, and there were some things thrown out which were obviated by the Counsel on the same side which I have the honour to take, which I must take some notice of. One argument of the Counsel for the Pannel is, that a trial, in a prosecution of this nature, may affect the Liberty of the Press in this country, a liberty which is the birth right of every British subject, and without which government could not exist. Gentlemen, a very few words will be sufficient to shew you, that the Liberty of the Press is no more connected with the question that is the subject of this trial, than your personal liberties, at this moment, have with it ; for, Gentlemen, to say that the Liberty of the Press is to be affected by a trial of this kind, by the prosecution of a person, charged with publishing an inflammatory and seditious libel, is as absurd, as to say that the liberty of a subject, or the British Constitution is to

be affected, by the trial of a highwayman, or a robber. The trial and conviction of these persons are absolutely necessary for the preservation of both the one and the other; for as no true freedom can exist in any country where crimes go unpunished, so no true liberty can exist where the "*the licentiousness of the press*" is permitted. Therefore I am sure you will be satisfied, that the Liberty of the Press can have no earthly connection with the case before you; for, if you are satisfied that this is an inflammatory paper, the Liberty of the Press, instead of being injured by a prosecution of this kind, is confirmed and strengthened.

Gentlemen, with respect to what was stated at so great length by the Counsel for the Pannel,—I say, with respect to the different quotations that he made from several speeches, that were said to have been held in the House of Parliament, and the various quotations from authors upon the constitution of this country, and which were said to be as seditious as the paper now before you, I apprehend the argument founded upon them is almost as applicable as the argument with respect to the Liberty of the Press; for, admitting that the extracts from those speeches are genuine, admitting that the authorities from which they were taken are genuine, and I saw that one of them was from the Edinburgh Gazetteer and the Morning Chronicle, if these could be held by you as legal evidence that such speeches were held, yet that has no earthly connection with the question before you; for, though there is such a thing as freedom of speech in Parliament, which is a privilege belonging to every member, those speeches, if made among the people, might have a very different tendency from what it has on the persons to whom the members of the House of Commons address themselves; there they have not the like tendency to excite the mob to acts of outrage and violence; and therefore that can be considered as no rule whatever. But, Gentlemen, it is certainly unnecessary for me to take up more of your time with respect to the preliminary arguments, stated by the Counsel for the Pannel, which were fully and clearly answered by the learned Counsel, and by the honourable Judges who spoke after him.

Gentlemen, you are to consider, whether this paper is truly or falsely described, in the libel, to be of a seditious and infla m

matory tendency ; and I am sure, it is almost impossible for any person to peruse that paper without being completely sensible, that the person who was the author of it, and who circulated that paper, did it for the most wicked and the most seditious purposes. The whole paper, from beginning to end, breathes the language of sedition, and of opposition to the established government ; it is wrote in a style which marks the school from whence it came ; it is violent, hyperbolical, and declamatory ; it calls upon the people to rise up, and vindicate their just rights ; it speaks of a war which was undertaken as a just war, it speaks of it, as being undertaken ' by a wicked ministry, to forge chains for a free people, and to rivet those chains upon ourselves.'—Gentlemen, when a paper of this kind is addressed to the lower classes of the people who are ignorant of the situation in which they stand as subjects of a free government, I say, when a paper of this tendency is addressed to such people, what effect must it have upon their minds ! Will it not lead them to acts of violence, to do every thing in their power to destroy the established constitution of this country ? And must you not be satisfied, that the person who composed it, and sent it into the world, had those seditious intentions ?—Gentlemen, it is not necessary for me to read over the particular parts of this seditious paper ; almost every part of it breathes the language of sedition. The first two paragraphs says, ' That portion of liberty you once enjoyed,' &c. [*See Indictment, p. 7.*]

Gentlemen, what is this, but making the common people of this country believe, that they are not only oppressed, but absolutely slaves ; and if they once have this belief, can you believe that they will not endeavour to exert themselves, as much as possible, to destroy that government under which they live as oppressed slaves ? and can you believe, that a person sending such papers among them, did not intend to excite them to acts of outrage ? It is unnecessary for me to read any more of the paper which is the ground work of this trial,—I leave it entirely to your consideration ; and I am perfectly satisfied you will be unanimous, that this paper does contain matter of a seditious tendency, and indeed, supposing the words of this paper had been very different to what they are, supposing the intentions of the author and circulator had been different to what they are, the

manner in which it was circulated and sent abroad, must satisfy you, that there was some such wicked intention on the part of the person who sent it abroad. If this man had considered, that this paper contained nothing of a seditious and inflammatory nature, can you believe he would have circulated it in the way he did—going to two booksellers, and getting it printed in the clandestine way in which he did get it printed; if this was not his intention, he certainly would have published it in a very different manner; but the proof of this man's intention does not rest upon the way in which he circulated it, because the paper itself shews, from the whole tenor of it, that the person who wrote it did mean to create a spirit of disaffection to the established government. Why then, Gentlemen, it is for you to consider, whether this man's being the author of this paper, and whether his printing, or causing to print, and circulate this paper, is or not, established by the evidence; and, Gentlemen, the proof in this case appears to me to be so very clear, and so conclusive, that I should think it very unnecessary to take up much of your time in recapitulating the substance of that evidence. I take it to be most clearly established in proof, that this Pannel is the author of the paper contained in the indictment;—and the evidence upon that head, which I shall call your attention to, is that of Mealmaker. Gentlemen,—George Mealmaker depones, that there were two societies in Dundee, one of the Friends of the Constitution, the other of the Friends of Liberty, of which last he is a member. He tells you, that he remembers, in July, an Address to the Friends of Liberty; that Mr. Palmer, being invited with some others to the meeting, he read the address; that there was sometime after a general extraordinary meeting, to consider the business of the Society and the situation of the country; that it was proposed at the committee, that it should be read at the general meeting; that he read the address, and that alterations were proposed and agreed to; that it was ordered to be printed; and, so far as he recollects, it was delivered either to Mr. Palmer, or Mr. Ellis, or both of them;—but that part of his evidence, which establishes in as clear a manner as can be, that this Pannel was, in law, as well as in fact, the proper author of this paper, he says, that part of the address only was produced at the committee; that at the general extraordinary

meeting, it was produced more full;—and, Gentlemen, he goes on, and says, that the additions were in the hand-writing of Mr. Palmer; he says, that the society unanimously gave orders to Mr. Palmer, or Ellis, to get it printed; and, that they accepted the offer of the society; that it was printed, and the society paid the expence of it; he saw an order given by the society for the payment of it; that he heard it had been printed in Edinburgh; and that he heard that leaves were torn out of the book. So that you see it is established, by the evidence of Mealmaker, that the whole of it was not wrote by Mr. Palmer, yet that it was left in Mr. Palmer's hands, and afterwards, when produced in the general extraordinary meeting, the several additions and alterations were in the hand-writing of Mr. Palmer.

Gentlemen, I do beg leave to submit to you, that this must, of itself, shew that Mr. Palmer is, in the eye of the law, and must be held and considered in the eye of the law, as the author of this paper; and I must beg leave to observe, that it is by no means a probable story that Mealmaker has told, and some others have concurred with him in saying, that he was the author of the first part of it, if you look at the style of writing,—look at his subscription, that is clearly the style of a man of no education, and the style of the paper is that of a man having had a liberal education; and I cannot but believe that Mr. Palmer is the author of the first part of this paper, but it is not in evidence, how much of this paper was the production, that was laid before the committee at the first meeting. I say, from the evidence of Mealmaker, that Mr. Palmer kept possession of this part of the address, and brought it afterwards to the general meeting; this must satisfy you, that, though Mr. Palmer may not have written every line of this address, he must be held in law, to be the author of this publication. Then Mealmaker goes on, and depones, in cross-examination, that the burden of it was, the society being discontented with the present state of representation; that Mr. Palmer did not make the original draft; that his alterations were more soft in the expressions, and that, in the original committee, he was against publishing it altogether. Now, this part of Mealmaker's evidence is confirmed by the evidence of Ellis, who depones, that Mr. Palmer said, that he did not think there was any thing exceptionable in the paper;

that he held it to be as true as the gospel, and, in his opinion, innocent, but that he was afraid people in power would take notice of it. Now, when you see that Mr. Palmer softened the expressions, this is one of the strongest circumstances, which must convince you of what Mr. Palmer's intention was here. Mr. Palmer was certainly the best informed person in that meeting; he knew, that if he was to insert expressions palpably seditious, he could easily be brought to punishment; but he softens the expressions, and shews, that he did not intend to be brought into trouble for this paper, but that it should come forth in the shape in which you now have it.

Gentlemen, I say, therefore, that taking the whole of the evidence which you have just now heard, I am confident you will be of opinion, that the first part of the indictment is proved, that Mr. Palmer was the author of this seditious paper; but whether he was or not, you will consider whether he was not the person who got it printed at Edinburgh; and, to this end, I would call your attention to the evidence of Morrin; he says, he got one thousand copies from his brother, who printed them; that Mr. Palmer ordered them to be printed; that he had a letter from Mr. Palmer ordering them to be printed; and you will consider the import of that proof, and you will be clearly of opinion, from the comparison of the hand-writing, that all these letters said to be wrote by Mr. Palmer are the same hand-writing.

Gentlemen, I own I find myself so much fatigued, and so unwell from the heat that is now in this room, that I am hardly able to go through the whole of the evidence. The last thing in the indictment is, with regard to the circulation of this paper, which is most clear and conclusive. You have the evidence of the two booksellers of Dundee; both of whom expressly tell you, that Mr. Palmer called at their shops, and left them several copies of this paper, that they afterwards burnt them; and their evidence is confirmed by the evidence of Smiton, who received a letter from Mr. Palmer, mentioning, that he had sent a number of copies of this paper; and, he says, that he gave them to a Mr. Harwood, a Mr. Fisher, and some other persons; so that the circulating of this seditious paper is clearly established by the proof before you.

Gentlemen, I will not take up any more of your time, for I feel myself so very much exhausted, that I am not able to go on. I leave the case with you, confident that you will be satisfied in your minds, that each of the articles in this indictment is substantiated by proof; and, that you will be satisfied, (whether you shall be of opinion, that Mr. Palmer wrote every line of this paper, or not,) that the other parts of this indictment are proven, that he caused the paper to be printed, and when printed, did distribute, and did circulate.

MR. CLERK,

Gentlemen of the Jury—It is now my duty, Gentlemen, to make a few observations in behalf of the Pannel at the bar; and it is your duty, fairly, and impartially to try his cause. Gentlemen, since it is your duty to try his cause fairly and impartially, I must, in the *first* place, observe to you, that there is nothing whatever which has such an effect to prevent impartiality, to prevent fairness in men's opinions, there is nothing whatever, Gentlemen, that has such an affect to warp their opinions, even in the most sacred and judicial questions, as political prejudices. When parties run high, Gentlemen, and when a person known to entertain certain opinions in politics comes to be tried,—Gentlemen, it is scarcely possible, let the Jury who try him be never so candid, and never so fair, I say, if possible, it is a very difficult matter, indeed, for them to divest themselves of their prejudices. It is well known that this country is at present deeply involved in party spirit, a great majority of the country thinking one way, while a certain part of the country think in another way. I am not personally acquainted with any of you, but I believe you to be a sensible, and intelligent Jury. And, Gentlemen, I apprehend that I say nothing improper to you, in the *first* place, in warning you of the partialities and prejudices that must naturally arise in your minds from the circumstances of the times, which are perfectly notorious to every man who hears me. Gentlemen, it will be necessary for me, before I come to the evidence, to enter a little into the history of the ideas of reform that have been propagated in this country, and likewise into the history of the strong language that has, on different occasions, been used by one party to another in political matters.

Gentlemen, I need not go farther back in the history of reform than the American war, a long and calamitous war, as it is now universally acknowledged to have been, a long and calamitous war, that entailed many miseries and an amazing load of debt upon this country. Gentlemen, after the American war had continued for some time, for at first, you must recollect, at first it was a popular war; but, after having continued some time, opposition to the ministry, Gentlemen, of all descriptions, in Parliament and out of Parliament, indulged themselves in a latitude of language that had hardly ever before been known upon any other occasion; and, when I say so, I say something exceedingly strong indeed. Every one of you must have seen,--- every one of you must have read the letters of that famous libeller Junius; and yet, I believe it is in my power to point out to you forms of expression, respecting his Majesty's government, infinitely more strong, however wicked, however libellous, than are to be found in the letters of Junius. The men that opposed that war, and it came to be at last almost the whole country, for the war was continued by the Government long after it was unpopular,—the men who opposed that war, indulged themselves in great strength of expression,—the expressions in this Hand Bill are weak and feeble indeed, compared with the expressions in which, by those letters, the ministry were stigmatized; they were abused, in all possible shapes, for daring to continue a war against a people fighting for their liberties;—the impolicy and the injustice of the war was stigmatized with every kind of language that the mind of man, I had almost said the malice of men, could invent. Now it must be plain to every man who hears me, that the American war gave birth to various plans of reform; the legislature was, by a great variety of people, attacked as having corruption in it, and it was held out to be absolutely necessary that some reform should take place. Gentlemen, the first of these reforms, not absolutely the first in point of time, but we may call it so here, the first of these reforms was proposed by Mr. Burke himself, Mr. Alderman Sawbridge had, to be sure, been making his annual motion about triennial Parliaments, but Mr. Burke himself was the first man who made a stand upon the point of reform; and, at last, avowedly for diminishing the influence of the Crown, accomplished a reform, by which a num-

ber of places were taken away, and the Crown was deprived of a considerable degree of influence, which influence was supposed to have been improperly exercised, in corrupting the two Houses of Parliament; and, Gentlemen, it was very openly spoke out on all hands, both in Parliament and out of Parliament, that that influence of the Crown was so employed; and, I am sure there is no man in this room so ignorant as not to know, that these complaints of the extending influence of the Crown went over the whole nation; almost every man believed that the influence of the Crown was increasing at such an amazing rate, that, unless something was done to stop it, it would swallow up the liberties of this nation. When the nation universally disapproved of the American war, and yet found that the minister could furnish resources for the war, it was supposed that the Crown had more influence than the people had; and the inference was, that it could not have had influence without some corrupt means or other. Now, Gentlemen, strong language was used against the American war. Mr. Burke proposed his reform in Parliament; but this was soon followed up by new ideas: It was supposed that Mr. Burke's reform was inadequate and ineffectual; the people began to look into their elections; they began to consider that the representation of the people in Parliament was not fair and equal; that a very few people had a command of the majority of the House of Commons; that many Peers had the nomination to seats in the House of Commons. Gentlemen, I need not go over all this ground with you, you must remember well how the Reform in Parliament and of the representation of the people in Parliament was introduced. Now, Gentlemen, as often as it was introduced, it was defeated by majorities in Parliament; but, at the same time, those who have introduced it continued to carry on their designs; and how did they carry them on? Why, by pamphlets, some of which I shall have occasion to mention; some by newspapers; they still continued to prosecute their plan of reform. Now, Gentlemen, these plans of reform were universally in agitation, and they had a great many favourers then which they have not now. Every person must recollect, that the most illustrious men, now in Parliament, were friends to a reform in Parliament. What! need I mention his Grace the Duke of Richmond? What! need

I mention Mr. Pitt, the constant friend of reform, even after he was in Ministry? What! need I mention the Secretary of State, Mr. Dundas, who, upon one occasion, supported the reform. But, Gentlemen, this went on, and a reform was thought by no means to be so abominable a thing, that was to introduce anarchy and confusion, to destroy the government, to destroy the House of Lords. Gentlemen, before the French Revolution no such ideas were ever heard of, no such ideas were ever mentioned; and the argument was all on the side of the reformers, till at last there was no decent or good argument against the reform to my knowledge; and so much was this the case, that the most sensible men I know declared themselves to be convinced, that a moderate reform in the House of Commons would be of the most essential service to the community, and would strengthen the constitution. But, Gentlemen, upon the French Revolution taking place, a new series of events happened;—this was an event unparalleled in the history of affairs, a mighty monarchy, apparently established by every thing that was secure and unassailable, was suddenly overturned by its own corruption. The inhabitants of this country, the inhabitants of the globe were stupified at hearing it;—it gave general satisfaction. At the first news of the Revolution in France, when it was supposed that it would be carried no farther than a sort of reform in France, a representation of the people, a continuance of the nobility, and all the glory and splendor of the monarchy, with a mixture of liberty, no man will be so uncandid as to say it gave the smallest displeasure; on the contrary, great joy and satisfaction; and every benevolent and liberal mind in this country rejoiced, that the French had recovered their liberties; however, most unfortunately, in France new events took place in consequence of the violence of their factions and their parties, in consequence of numberless frauds and crimes of all descriptions, chiefly of the political kind. Gentlemen, the glory of the Revolution was done away, and anarchy and confusion succeeded. But, Gentlemen, the people in this country, who had at first applauded the Revolution, still continued to think, a great part of them still continued to think, notwithstanding those unfortunate circumstances, that, if matters would take a better turn in France, the French Revolution would be of advan-

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tage to France itself, and in general to human affairs, a very considerable number of the inhabitants of this country, and not the least respectable in point of judgment and abilities, long entertained that opinion. Gentlemen, I am sure you will join me in thinking, that the people who applauded the French Revolution did not desert them suddenly. No, Gentlemen, they left them gradually, their well wishers fell away piece-meal; the people who had applauded the Revolution departed from them by degrees; and still they had some friends left who considered that the French Revolution would ultimately be a benefit to France, and to the human kind in general. Now, Gentlemen, you well know what effect these disputes had in aggravating the violence of parties in this country; the most furious debates took place, even in Parliament itself, debates the like of which had never been heard of, for the violence of the expressions that were used on both sides. And, Gentlemen, the violence of those discontents, and the virulence of parties was aggravated by the separation and the quarrels of men, who had formerly entertained a good opinion of each other, and had acted with one another in parties.

Gentlemen, at this unfortunate time, when parties were running so extremely high, popular writers arose in this country, and applied the doctrines, circulated in that country, for the most insidious of purposes in France, but much more so in this country; they took hold of those topics, and assailed the vulgar minds with arguments, perhaps too powerful for them to encounter. Gentlemen, writers arose on the other side, and answered them with the virulence of invective, at the same time that they endeavoured to answer them by argument. Parties rose still higher; one man in politics could hardly open his mouth to another upon these subjects; and I really believe in my own mind, that, if you go back in the history of this country to the most violent times that ever were known, perhaps no period ever happened in this country when parties entertained such animosities against one another.—You have heard to-day, from my friend Mr. Burnett, that the existence of our government has been attacked by these violent libellers. On the other hand, you are no strangers to the hand bills and pamphlets, of every description, that are circulated on the other side; they treat the doctrines, advanced by Mr. Burnett, as the doctrines of despo-

alism and tyranny.—In short, the two parties have exhausted against each other every topic of virulence and abuse.

Now, Gentlemen, while matters were in this situation, and parties ran so high, as you must know in your own conscience they did, proclamation was published, stigmatizing certain publications in vindication of the French doctrines, and the other new doctrines which have been grafted upon them. Gentlemen, the proclamation mentioned no book in particular; but it was well known to allude to Mr. Paine's book.—Such was the Liberty of the Press, or the Licence of the Press, that the book was circulated and recommended to the perusal of every person, and yet nobody supposed it to be a libel, that is, an unlawful writing; no person supposed it to be a libel; no person supposed it to be illegal; no person supposed that, though it contained doctrines in themselves dangerous, either the author, or the printer, or the publisher of such a book, had been guilty of any crime; and so little did the people suspect it, that I have mentioned it, and you must all know the fact, that different societies, advertised in every newspaper, recommending the writings of Paine to every body; and they were at the pains to have cheap editions of them printed and circulated among the lowest of the people. I believe no book ever was published which met with such a rapid circulation; and yet it was long before it was known to any of the great lawyers that this book was a libel or contrary to the Liberty of the Press. The progress of animosities grew with the progress of French affairs, whether they were successful, or whether they were defeated, it was still the topic that alarmed the fears of the one party, or increased the hopes of the other party.

Gentlemen, at last the common people, the populace of this country, were supposed to be infected with dangerous opinions, in consequence of the different popular works that had been distributed among them; and this happened at the same time that the French had been successful in driving their enemies out of France, and even in over-running a great part of the Low Countries; a sudden alarm was spread through the whole country, every man of property trembled for his property, every man of property dreaded that his poorer neighbours round about

him would join with the other vulgar in the neighbourhood, and rob him of his property,—anarchy would be introduced, and matters get into the same situation as the affairs in France.—You cannot be strangers to this alarm. I dare say you yourselves feel it : You are men of property, and you must feel as every man of property did feel, that his property was in danger, from the supposed pernicious influence of the doctrines that had been circulated among the people—doctrines very flattering to vulgar minds concerning the Rights of Man.—Now, Gentlemen, I need not state how much these circumstances must necessarily increase the violence of party prejudices ; nor need I state to you that those gentlemen, who still adhered to the cause of reform, who still thought that a Reform in Parliament was absolutely necessary, in order to prevent the increasing influence of the Crown, I need not state to you, that these men were engaged in the same cause with those who entertained the more pernicious French doctrines ; and it was most natural that they should be joined in the same cause, because every person who entertained the French doctrines was necessarily a reformer ; though it did not follow that every person who was a reformer entertained those dangerous doctrines that had been circulated.

Gentlemen, I have thought it necessary to make these observations to shew you, in the *first* place, something of the history of reform, and what has given birth to it ; and in the *next* place, to warn you more solemnly against that partiality and that prejudice, that must be in the honestest minds in this juncture of affairs. I say, it is difficult, if not impossible, for any man, interested and alarmed for his property, for men, who entertain those feelings, to act altogether free of those prejudices in judging of a cause, in which the question of reform seems, in some degree, to be implicated ; and a question against an individual, who is known to have used his exertions in order to promote that dangerous cause,—that cause which you consider to be dangerous. Now, Gentlemen, having said so much, I must, in the *next* place, turn your attention to the *legality* of the object which those men have in view, who wish to obtain a Reform in Parliament.

Gentlemen, many detest the cause of reform ; many consider it as most dangerous to the country ; many even consider it as

absolutely necessary to stifle every mention of reform. But, Gentlemen, that is a mere opinion upon the expediency of reform; for, however pernicious the doctrines of Paine may be, however pernicious doctrines may be that are directly hostile to the constitution, that have a direct tendency to overturn the government altogether, however illegal to entertain a serious design of introducing such a reform as this, *that Monarchy should be abolished, that the House of Lords should be abolished, and Democracy set up*, however illegal such a design may be, I have never heard from any tolerable authority, from any person, that the cause of reform, even when prosecuted by the meanest of the people, that the cause of reform, *a fair, free, and equal Representation in Parliament*, that that is an illegal object to pursue. Various gentlemen have proposed their plans of reform; the present Chancellor of the Exchequer, the Prime Minister of Great Britain, has several times made motions in the House of Commons for Reform in Parliament: It is well known that the Duke of Richmond did the same thing. It is well known that Mr. Flood, who died lately, likewise introduced a plan of reform; and it was never suspected, when these plans of reform were brought forward, however pernicious it might be, it was never suspected that it was illegal to pursue such an object. What is more—a reform in the county representation in Scotland is at present in agitation; and even the Public Prosecutor himself, the Lord Advocate, (and I am happy in the opportunity to express my esteem for him, and that esteem which every body who knows him must feel,) has appeared as *a Delegate* in Edinburgh in the cause of that reform. Nay more—is it not well known to every body, that a reform is at this moment entertained in the House of Commons, a Reform in the Royal Boroughs of Scotland?—A respectable committee of the House of Commons has been appointed to consider of the grievances which these boroughs laboured under, and to report, in order to gain a reform among these boroughs. It is vain therefore to pretend, that the cause of reform, however pernicious it may be, however inexpedient it may be, it is in vain to say that it is *illegal*. Gentlemen, if the means made use of in this reform are constitutional and legal in themselves, I should hold it as a proposition, proved beyond a possibility of doubt,

that a reform is a *legal object*. Now, Gentlemen, you will observe, that, if it is a legal object, if a man can avow himself a friend of reform, who wishes certain changes to be made in the representation of the people, who wishes a number of what are called the Rotten Boroughs to be struck off the roll of boroughs, who wishes a greater number of electors in all boroughs, and who wishes, in general, a more fair, free, and equal representation of the people in Parliament, and a shorter duration of Parliaments; if it is legal to entertain these ideas, and prosecute them, however inexpedient it may be, I am afraid you cannot take that into consideration in this question—expedience or inexpedience are words not known in a court of law. If the gentleman at the bar is a reformer, his ideas may be exceedingly pernicious and dangerous in their tendency; but if they be legal and constitutional in themselves, however inexpedient they may be, it is impossible for you to take the expediency of that plan into your consideration at all; you can only consider whether it was or not a legal object to pursue. Now, Gentlemen, it has been pretended, however, that, though it may be a legal object to pursue, *for people of a certain rank in life, men who are entitled to judge in such affairs, men who have great landed property, or men who, by their learning and abilities, may be of service to government*, by stating, what defects there may be in it, and offering a proper and easy means of curing them, still, it is pretended, that *the populace, that the vulgar, that the lower ranks in society, have no title to interfere in these matters, that they have no title to discuss such subjects, nor have they any title to associate themselves for the purpose of obtaining a Parliamentary Reform*. Gentlemen, I know that this idea has been entertained, but, at the same time, I was glad to observe, that there was no such idea brought out in the speech from the Public Prosecutor to-day, and if there had, I am sure you would not have listened to it. The law of this country knows no distinction of persons; let a man be never *so great*, let a man be never *so wise*, let a man be never *so powerful*, he is not more entitled to consider what is good or beneficial to the country; he is not more entitled to petition Parliament for a redress of grievances, he is not more entitled to enter into the consideration of every question whatever that relates to the govern-

ment or the state, he is not more entitled to do any of these, than the meanest individual who walks the streets: *the beggar in rags* has a title to give his ideas upon the most important of our affairs; and if a society of *beggars* were established in this town, men who had no other means of livelihood but beggary, if they were to form themselves into a society, for the purpose of obtaining a Parliamentary Reform, or for the purpose of obtaining redress for any other grievance, I have no difficulty to pronounce, that an association of them is as legal as if they were landholders in the country; and the only question is, whether they make use of legal means to procure this object. A quotation from a celebrated writer was read to-day—it regarded the Liberty of the Press, but it likewise regards this great point. Gentlemen, the privilege of the subject to canvass the measures of government is acknowledged; it is acknowledged as a general and an abstract proposition; it is acknowledged likewise as a general and an abstract proposition, that the subject is entitled to petition Parliament, or any branch of the Legislature, for a redress of grievances. Now, where is the law pointing out a distinction as to man and man in this particular? There is no prohibition; and De Lolme, the greatest writer who ever considered our constitution, and is now established as a great constitutional authority, who has not one single sentence in his book which may not be regarded as constitutional law, who has stated the constitution of Great Britain in the most true and unexceptionable terms, and set it upon a basis that has never been condemned by any man of any description; a man, whose book has stood this test, states to you, ‘That whereas in other governments,’ &c.—[See *Appendix*, No. 13.]—There is a difference between our government and all others in this respect, that the privilege and liberty of the subject is in the same situation with the government in other states, to this effect, unless the liberty of the subject be restrained by positive laws, it is understood to be the law and the constitution of this country, that his privilege, as a British-born subject, is to do whatever he pleases; and it is incumbent upon the person, who pretends that it is not lawful for him to do this or that, to produce some law prohibiting him from doing it. And, therefore, I must now, from what I have said, state to you, that, however dangerous it may

be, however happy it may be in the circumstances of this country, that the small and insignificant societies should be gathering in every village for the purpose of reform, however prejudicial it may be to the interest of the country, as well as to their own interest, you are not to consider that, but you are to consider whether they, in doing so, are guilty of a breach of any known law. I shall say no more upon that subject. I consider it as a very clear and indisputable point, *that they are entitled, how mean soever they be, to pursue that object.*

Gentlemen, having said so much to you, I must now come to the person of the Pannel himself. He, Gentlemen, who is proved to you to have been a promoter of a Reform in Parliament, he is likewise proved to have connected himself with a society, a very insignificant one, in the town of Dundee, for promoting the same object; and I have here a very material observation to make upon the description of this society, as it has appeared in evidence. Gentlemen, you know well I need not point it out to you, the difference between the legality of pursuing a constitutional reform in Parliament, and of pursuing the new and dangerous doctrines for the overturning of the State. Now, I say, that not one hint or intimation has been given in the whole course of this day's evidence, that the society with which my client connected himself entertained any ideas hostile to the constitution. On the contrary, it is proved to you that they, on a former occasion, gave in a dutiful petition to Parliament, setting forth that they wanted a Reform in Parliament, that Parliament should be short, and that they might have a fair, free, and equal representation of the people; in short, the same object that has been pursued by so many excellent men in this country, and which has always been considered as a fair and honourable object. Now, Gentlemen, on the other hand, it has not been proved, and therefore you are not to presume that my client himself entertained any of these new and dangerous doctrines; on the contrary, every word of the evidence,—I need not read it to you, I need not make particular quotations,—every word of the evidence goes to ascertain this, that the object of the society was this same legal reform that I have been talking of, that no person has ever pretended to call an illegal object; and there is the best negative

evidence, that no idea, hostile or dangerous to the constitution was entertained by any one member of that society; and that no one action, no part of their debates, no part of their business ever went further than to the same legal reform; and however inexpedient you may think it, you must always keep it in view as a legal object.

Now, Gentlemen, I must here take the liberty to give you another caution that I think material. Gentlemen, you must judge of this cause, *secundum allegati et probati*, you must judge upon what has been stated, upon the libel against my client, and you must judge *how far that has been proved by the evidence laid before the Court*. Gentlemen, I am a stranger in this part of the country; I know nothing about the witnesses examined in this cause, any thing further than I see upon the indictment; I know nothing further than I have heard stated in evidence, I am totally ignorant of it; and therefore, Gentlemen, I say, from this it is impossible for me to explain, it is impossible for me to enter into any vindication of my client, or plead his cause, farther than appears upon the record itself, or by the evidence that has been given. Now, Gentlemen, the caution that I am about to give you is this, You are perhaps well acquainted with this part of the country, I make no doubt, that you both know, and that you suspect, that many of the lowest of the people in this part of the country entertains doctrines the most hostile to this government, and to all good government. Gentlemen, it is not impossible but some of you may know privately, or suspect, that even some of the members of this same society, of which my client was a member, entertain some of those pernicious doctrines. Gentlemen, if it had been proved that they entertained these doctrines, it would have been a most material circumstance indeed in this cause, but it is not proved; and, in such case, you must lay your private knowledge, if you have it, entirely out of your consideration; and you must judge of what has been proved in the cause, and of nothing else.

Now, Gentlemen, the next consideration is, after, as I flatter myself, having satisfied you of the legality of the general objects of this society, the next consideration is, What were the measures pursued by this society in the prosecution of their ob-

ject? for, Gentlemen, if the object itself was never so lawful, I apprehend that the end will not justify the means;—every man must be sensible of that,—if the object were never so lawful, still, if in the prosecution of this lawful object, (I give no opinion whether it was a proper object or not, but it was a lawful one,)—if, in the prosecution of this lawful object, unlawful means were used, then my client, if a participant in those unlawful means, must be condemned for having used them. Now, Gentlemen, upon this important subject I must, in the *first* place, observe to you, that it has never yet been questioned, at least, never since the glorious Revolution, that the subjects of Great Britain have a free and full title to discuss all the measures of government;—the refusal of a Reform in Parliament was a measure of government; all the different circumstances, stated in this Hand Bill, are measures of government; they are talked of and considered. Now, Gentlemen, it has never been disputed, that the free subjects of this country are entitled to discuss the measures of government, and that by means of the press: And, Gentlemen, notwithstanding the many panegyrics upon our constitution, in so far as it consists of King, Lords, and Commons, which are mutual checks upon each other, the King being a controul upon the other two branches of the Legislature, and so mutually one upon another,—notwithstanding the many panegyrics bestowed upon our constitution, it has been universally agreed, that the form of our constitution, excellent as it may appear in its contrivance, would be totally inadequate for the purposes of a free government, or for the maintenance of civil liberty, or for the comfort of society at all, that even this great and glorious constitution would be altogether inadequate for these purposes, were it not for the Liberty of the Press. De Lolme, in the quotation read to you, told you so expressly. I need not read it to you again. You must all of you be acquainted with the writings of that great philosopher and historian, David Hume; you know well that he was no advocate for reformations, that, on the contrary, he was a Tory writer, a writer who preferred the monarchical part of the constitution to any other part of it; and, in the whole course of his history, and the whole of his essays, his arguments are all supposed to lean to that side: And how does he express himself upon that subject?

He tells us expressly, after showing the advantages of public freedom, provided it is duly controlled and watched by the constitution, he says, ' These principles account for the great liberty of the press in these kingdoms, beyond what is indulged in any other government. It is apprehended, that arbitrary power would steal in upon us, were we not careful to prevent its progress, and were there not an easy method of conveying the alarm from one end of the kingdom to the other.' Here Hume evidently supposes, that any measure of government of a dangerous tendency, that the people have a right, by means of the Liberty of the Press, to print against it, and convey their sentiments from one end of the kingdom to the other; and Hume considers, that the excellent structure of our government in other respects, that all the provisions of law would be totally inadequate, unless there was some such engine as this, in order to keep the people continually in a state of alarm on account of their liberties. The spirit of the people must frequently be roused, in order to curb the ambition of the Court; and the dread of rousing this spirit must be employed to prevent that ambition. These are striking passages, and one would think that, if Hume had foreseen the cause that you are now to consider, he could not have thought of expressions more directly applicable to the case.—*' The spirit of the people must frequently be roused, in order to curb the ambition of the Court; and the dread of rousing this spirit must be employed to prevent that ambition. Nothing is so effectual to this purpose as the Liberty of the Press, by which all the learning, wit, and genius of the nation, may be employed on the side of freedom, and every one be animated to its defence. As long, therefore, as the republican part of our government can maintain itself against the monarchical, it will naturally be careful to keep the press open, as of importance to its own preservation.'*—And, Gentlemen, De Lolme, in the quotation before read, gives you nearly the same sentiments.—Now, Gentlemen, you should be very careful to distinguish censure circulated, by means of the Liberty of the Press, against the measures of government, from private censure or scandal.—Gentlemen, private censure or scandal is not even to be vindicated from its truth; the principle which seems to be acknowledged by the law is, that, if it be written scandal, it must of

necessity be considered as written for a malicious purpose; and, as writing such scandal has a tendency to raise heats and animosities, and even personal violence between men and men, between individual and individual; such private scandal, when written, is considered as a breach of the peace, because it immediately leads to a breach of the peace. If I abuse a man violently, is it not naturally to be expected that that man will lose his temper, and that we should go together by the ears? and, therefore, private scandal is punished as a breach of the peace; where it is only verbal, a distinction takes place: You may alledge that what you said was true, you may prove that what you said was true, in order to save yourself from being criminated for the scandal you have uttered;—but, in a matter which is considered as tending to a breach of the peace, you cannot save yourself from being criminated; and therefore, in a libel against the minister Mr. Pitt, *as an individual*, in his private character is actionable. But, Gentlemen, a paper, finding fault in the most violent terms that can be conceived of, with the measures of Mr. Pitt *as a minister*, is not actionable; and the reason is, that the free subjects of this country are entitled to discuss the measures of government, by means of the Liberty of the Press;—without the Liberty of the Press, the liberty of the subject could not possibly be maintained. Now, observe, that it immediately follows from this liberty of discussing, with the utmost freedom, the measures of government, that it is not enough to criminate a publication of this sort, *that it contains false, or indisputable matter*. Gentlemen, the probability is, that, in every measure government pursues, they are in the right, the probability is, that they act in the best way they can for the general safety and benefit of the country, it is a presumption which lays the *onus probandi* upon the person who complains to shew that it is not. Now this being supposed, how is it possible to conceive that the subject can exercise a right of canvassing the measures of government, or of finding fault with them, if they are not at liberty to state what may eventually be found to be false matters against the measures of government; and therefore I take it to be perfectly clear, that a calumny against the measures of government is not, as such, a libel; but any writing, that necessarily tends to a breach of the peace, that is clearly and directly hostile to

the constitution, and to the first principles of the government; any writing of that sort is no doubt actionable; but it is not sufficient to say that a writing contains false matter; because, if a writing were to be considered as a libel upon its containing false matter, it would be in vain to contend for the right of publishing true matter, true censure against the measures of government. Gentlemen, the question would always come before the Jury—one half might think it false, and one half might think it true, so that the one half of the Jury might think, that the measure was a measure expedient to adopt, another part of them might think it inexpedient, and another part might know nothing at all about the subject; but your good sense must tell you, that it is not enough to prove that it was published with a seditious intention, that it gives a false or misrepresented account of the measures of government; because unless men were allowed a latitude in their discussions, unless men were allowed to publish what is false, as well as what is true, the Liberty of the Press would be a mere name, and we should no longer have the smallest benefit from it. Now, Gentlemen, the Liberty of the Press must therefore be acknowledged; and, it must be acknowledged, Gentlemen, that the subject has a right to canvass the measures of government; and, it is not criminal in any work so canvassing the measures of government, it is not sufficient that it contains false averments; and, so far, I must here take an opportunity to correct the definition which you have heard of the Liberty of the Press. It has been told you, in very strong language, that it consisted of freedom from restraint in publishing, that it was a thing of the same nature with the liberty of speech; it is not in the power of any person by any human means to restrain the liberty of speech; no man can prevent me from saying what I please just now; to be sure if I were to say any thing very violent, I might be blamed for it, but it is impossible to prevent my uttering any thing I pleased just now; we enjoy the liberty of publishing what we please, but we must be answerable for the printing, we must do it at our own risk; and, if it happens that what we print is a libel, or any criminal matter, that we may be punished for it just in the same way as we may be punished for speaking;—but this is an idea of the Liberty of the Press which is a mistaken one, it goes a great way further as to public matters; to be sure, as to

private matters, the definition of the Liberty of the Press is perfectly just; no man can prevent my printing, but the moment I print scandal against any man I may be libelled for it; but, where the rights of a people are involved, it is very different, from having a liberty to print without an imprimatur, or a licenser. Now, Gentlemen, I apprehend that I have shewn you, that the Liberty of the Press is not only liberty to print what you please, but that it is a liberty to print *what censures you please against the measures of government* and, it is not sufficient to criminate you, that it is false; if it were never so false, if it were never so mistaken, unless it be proved, *that you had a criminal intention*, which I will state by and by, the Liberty of the Press is that which the subjects of Great Britain have a right to make use of.

Now, Gentlemen, I am sure I need not give you many instances of the Liberty of the British Press being so exercised, if there are any men in this room, who never read a newspaper, I might speak to them upon that subject; but, as I believe you to be all gentlemen, well informed in the principles of the constitution, as I believe that you have read a number of tracts upon the measures of government, you must have seen them *freely censured*, and *falsely censured* upon many occasions, I need not talk to you upon that subject; and, Gentlemen, it is certainly a good negative argument, that we don't see these libels prosecuted; and you must understand, that since they are not prosecuted, that the Liberty of the Press protects them. Gentlemen, you were told, upon the argument of relevancy, that many libels being circulated, that many crimes being committed of this nature, and passing unpunished, was no argument, in a court of law, why this libel, being a crime, should not be punished. Gentlemen, certainly not, if it was a murderer that was before you, it would be the most ridiculous and absurd, as well as the most detestable of all arguments, to tell you other murderers have gone unpunished; but don't you see, that this is altogether a begging of the question? The question is, whether this is a libel or not? and it is a strong and prevailing argument surely to say, that we are to canvass the measures of government; it is a strong argument to shew you, that in millions of instances, I am sure, to talk of millions of publications, canvassing the measures of government, within these twenty years, is to speak in moderate

terms, to talk of millions of such libels being circulated; and, therefore, the fact that I now take notice to you of, the universal sense and practice of the country in allowing such things to pass, is a proof of the law and the constitution of the country, that however wicked such things may be in themselves, however improper they may be, still it is a check, that the people should have it in their power, to send the alarm from one end of the kingdom to the other, upon every occasion when they think it necessary. But, Gentlemen, if these publications are libels, as has been hinted, what must you think of the public justice of the country? I am sure this is the strongest libel that I have seen of late, that the Public Prosecutor has allowed all these infamous libels to escape, during a course of so many years, libels dispersed about for the worst of purposes; for every man knows that, and of libels having such pernicious effects, as is universally said—shall it be said, that all these libels have been winked at, that the Public Prosecutor has betrayed his duty, that he has betrayed his country in not prosecuting these libels, in order to wreck the whole of his vengeance at last upon Mr. Palmer? It is impossible that you can think so.—The Public Prosecutor knows the Liberty of the Press better; it was not till this party spirit had rose so high, that it was ever thought of to prosecute such writings; but although we are at liberty thus to use the privilege of the press, we are not to use it in such a way, as to raise sedition.

Gentlemen, the question is, therefore, Whether has the Liberty of the Press been abused to this effect or not? It cannot be denied, after what I have said to you, that we may canvass the measures of government, and state what facts we please, unless the most villanous and seditious intention, followed into action, be proved against us—and, it cannot be denied, that we may state these censures upon the measures of government, in what language we please; because, to circumscribe us in the use of language, if we are to state the things themselves, would be totally ridiculous; for what purpose grant the subject the Liberty of the Press, if he is not to use it in an effectual manner? Is he obliged to measure his sentences according to the will and pleasure of the Public Prosecutor? No, Gentlemen; if he be allowed to state these facts, he may state them in the strongest language;

and to rouse the lethargy of the people, if he thinks it necessary; not indeed to stir them up to acts of violence—not indeed to stir them up to acts of sedition—not to stir them up to acts of rebellion against the government—not to this effect. But, observe another circumstance in the constitution of this country, which likewise ought to be shewn you, that there is no danger in this Liberty of the Press; and therefore, indirectly, that we enjoy this Liberty of the Press, to the full effect that I have stated, to canvass the measures of government, *as freely as we please*.

Gentlemen, a long stand was made, and very frequently renewed against the appointment of a standing army in this country; at last, Gentlemen, the standing army was established; and it has from time to time increased in numbers, till at last the number of our standing army is very considerable. In time of war, we have not so many men in the country; but in time of peace, when the soldiers come home, there is a standing army amounting to a very considerable number in the country; and fully sufficient, no doubt, to curb any seditious spirit arising in the populace. When, Gentlemen, in the famous riots in 1780, they had almost destroyed the whole government; when the populace of London were actuated by a phrenzy, burning every thing they could find—did we not see, in a few days, a few regiments brought up to the capital, and these restored order, peace, and tranquillity in a very short time. There can be no question, but the standing army of this country secures the peace of the country against any sedition that may be supposed to arise among the people. Now, this is an argument, and I take it a very prevailing argument, for the use of a standing army at all; and it is an observation made by my worthy friend, the late Mr. Smith, who wrote upon the wealth of nations, and he states, that as the special purpose of keeping a standing army in this country is, that by the means of a standing army, the people may be allowed the liberty that there may be no restraint upon their liberty; for they may say or do what they please, unless they come to actual violence, (which is certainly punishable without the smallest danger to the government, without the smallest danger to the settled establishments of the country, and that, in consequence of this standing army :) and, therefore, Gentlemen, I must take notice of this to you in a particular

manner, that the establishment of a standing army in the country, putting matters in perfect safety, and which has been established by these very arguments used in Parliament, this is another proof, that the subject may, in any way he pleases, and in what language he pleases, discuss the measures of government.

Having now stated, Gentlemen, that the Liberty of the Press may be thus exercised, and that any person who pleases, or any set of men who please, may publish their ideas upon the measures of government, I wish to call to your attention the particular phrases of the language that has been used upon such occasions; because I take it now to be beyond a controversy, that, as to the matter stated in this Hand Bill, that, or any other matter, may be stated against the measures of government, if it is done in warrantable language, and not for a seditious purpose: The thing that remains, therefore, is to see, whether it is legal or warrantable, to use such strong terms as are used in this Hand Bill? Whether the terms must be considered as so atrocious as to make it amount to a libel, though the matters insinuated in the Hand Bill do not make it amount to a libel; for there is no person but will be of opinion, that if the same ideas were brought forward in moderate language, that a moderate, a candid, and a calm discussion of the matters treated of in this Hand Bill, there is no person will say that it is a libel; and no person will pretend to say it is worse to write a Hand Bill, than publish a pamphlet; they must be considered upon the same footing. Gentlemen, I hold a pamphlet in my hand, stigmatizing the present minister personally, and the measures of government pursued by him. Gentlemen, it is written in such a style, and contains such ideas, that you cannot question, for a moment, that this pamphlet, industriously circulated among all the minister's enemies, would have been a subject of prosecution, if it had been a libel, it is impossible for one moment to doubt it; and, therefore, in reading the passages from this work, which I think are stated in language fully as pointed, as any stated in this Hand Bill, I apprehend that I shall go near to convince you, that the style of language adopted in the Hand Bill is not seditious, is not libellous in itself, because the language of this pamphlet though still more violent, still more inflammatory, if you will allow me these expressions, has not been considered as a libel.

This, gentlemen, is a letter to the Right Honourable William Pitt, and mostly upon the subject of his conduct with respect to a reform. It begins with accusing Mr. Pitt of apostacy from that cause; and, having stated in general what was to be the subject of the pamphlet, it goes on thus—‘The annals of ancient or modern apostacy contain nothing so flagrant. It was reserved for our days to add this variety to the various combinations of fraud and insolence, which have in former ages duped and oppressed mankind; and it was peculiarly reserved for a statesman, whose character reconciles the most repugnant extremes of political depravity, the pliancy of the most abject intrigue, with the vaunting of the most lofty hypocrisy. It was reserved for him, not alone silently to abandon, not alone even publicly to abjure the doctrines of his former life; not alone to oppose, with ardour, with vehemence, with virulence, those propositions from others, by which he himself had earned unmerited popularity, and climbed to unexampled power; but by a refinement of insolent apostacy, to convert into a source of obloquy against other men, a measure which had been the basis of his own reputation and importance. It was reserved for such a man to repeat those very common-place objections to the measure, and those very common-place slanders against its movers which had been urged against himself, and which he himself had justly despised, or victoriously refuted. It was reserved for him, unblushingly to renew all the clamour against novelty, and all those affectionate alarms for the British Constitution, which patriotic borough-mongers had so successfully employed against himself. Yes, Sir, it was reserved for the son of Chatham thus to stigmatize the “dying legacy” of his father, and thus to brand his own “virgin effort.”

‘You will have already perceived, that it is on your late conduct in the case of Parliamentary Reform, that I am about to animadvert. Though I feel a dislike not unmixed with contempt for politics purely personal, and though I should be the last man to betray and degrade the great cause of reform, by mingling it with the petty squabbles of party, yet when I see the authority of an apostate character opposed with impudent absurdity, to the cause from which he apostatized, I think it at least fit that that obstacle should be removed, and that the va-

'pouring language of such a delinquent should be counteracted
'by the merited brand of his crimes.

'The cause of reform demands that the nature of your present opposition to it, should be understood by the people. The
'interest of the people demands that they should well understand
'the character of him who may yet be likely, in some possible
'combination of events, to offer himself to them as the champion of reform, and perhaps ultimately to prove the leader in
'more extensive and dangerous measures. And it is generally
'fit that no signal example of triumphant apostacy should pass
'with impunity.

'These are the public reasons, Sir, which lead me to call
'public attention to your conduct; reasons which have influenced one who has no respect for your principles, and no exaggerated opinion of your abilities, which he has sometimes admired without idolatry, and often opposed without fear. That
'I am in no abject or devoted sense a partizan, I trust even my
'present sentiments will prove. I am only, therefore, your enemy
'my so far as I believe you to be the enemy of my country;
'and I am not unwilling to adopt for the creed of my *personal*
'politics, the dying prayer of a great man, "*Ut ita cuique eveniat ut quisque de Republica mereatur?*"

'The three general grounds then on which I shall proceed to
'examine your conduct are, your apostacy—your present pretexts for opposing reform—and the probability of such a future
'conduct in you as may render it extremely important that the
'people should justly appreciate your character.

'Your entrance into public life was marked by circumstances
'more favourable than any English statesman has ever experienced. With all the vigour of your own talents, with all the
'reflected lustre of your father's character, you appeared at a
'moment, when the ungracious toil of opposition was almost past,
'when little remained but to profit by the effect of other men's
'efforts, and to urge the fall of a tottering ministry, whose misconduct had already been fatally proved by national misfortune.
'The current of popularity had already set strongly against the
'minister. The illusions of American conquest and American
'revenue were dispelled. The eyes of the people were opened
'to the folly of the Cabinet. You had only to declaim against

' it. The attention of the people were called to those defects,
 ' in their constitution, which permitted such a Cabinet, so long
 ' to betray the public interest, and to brave the public opinion.
 ' You had only to put yourself at the head of the people, to de-
 ' clare yourself the leader of reform. In this character you had
 ' recourse to the same means, and you were assailed by the same
 ' objections, with every past and every future leader of reform.
 ' Despairing that a corrupt body should spontaneously reform it-
 ' self, you invited the interposition of the people. You knew
 ' that dispersed effort must be unavailing. You therefore en-
 ' couraged them to associate. You were not deterred from ap-
 ' pealing to the people by such miserable common places of re-
 ' proach as those of advertising for grievances, diffusing discon-
 ' tents, and provoking sedition. You well knew, that in the vo-
 ' cabulary of corrupt power enquiry is sedition, and tranquillity
 ' is synonymous with blind and abject obedience. You were not
 ' deterred from joining with the associations of the people by be-
 ' ing told they were to overawe Parliament. You knew the
 ' value of a jargon that does not deserve to be dignified by so
 ' high a name as sophistry. You felt for it that contempt which
 ' every man of sense *always* feels, and which every man of *sincer-*
 ' *ity* will always express.

' As you were regardless of the clamour against the necessary
 ' *means* for the accomplishment of your object—as you knew that
 ' whoever would substantially serve the people in such a cause,
 ' must appeal to the people, and associate with the people; so
 ' you must have had a just and a supreme contempt for the sophistry
 ' which was opposed to the measure of reforming the representa-
 ' tion itself. You were told (every reformer has been told, and
 ' every reformer will be told) that of innovations there is no
 ' end, that to adopt one is to invite a succession; and that though
 ' you knew the limits of your own reforms, you could not pre-
 ' scribe bounds to the views which their success might awaken
 ' in the minds of others. To so battered a generality it was
 ' easy to oppose another common place. It was easy to urge
 ' that as no government could be secure, if it were to be perpe-
 ' tually changed; so no abuse, could be reformed if institutions
 ' are to be inflexibly maintained. If they call the courage
 ' of a reformer temerity, he is equally entitled to represent their

caution as cowardice. If they speak from conjecture of his future interest in confusion, he may, from knowledge, speak of their actual interest in corruption.

They told you that extravagant speculations were abroad; that it was no moment to hope for the accomplishment of a temperate reform, when there were so many men of mischievous and visionary principles, whom your attempts would embolden, and whom your reforms would not content. You replied, that the redress of real grievances was the surest remedy against imaginary alarms; that the existence of acknowledged corruptions is the only circumstance that renders incendiaries formidable; and that to correct these corruptions is to wrest from them their most powerful weapon.

By a conduct thus natural you pursued your measure. Of that conduct indeed I should not now have reminded you, *had it not been for the sake of contrasting it with some recent transactions.* It is almost unnecessary to add that you found it easy to practise on the generous credulity of the English people, and that for the first time in the present reign, the King's advisers thought fit to chuse *their* minister from the knowledge of his being popular, actuated by the double policy of debauching a popular leader, and of surrounding with the splendour of popularity, the apostate agent of *their* will. But with the other parts of your public life I have nothing to do, nor will I trace minutely the progress of your pretended efforts for Parliamentary Reform.

The curtain was dropped in 1785. The farce then closed. Other cares then began to occupy your mind. To dupe the enthusiasts of reform ceased to be of any further moment, and the question itself slept, until it was revived by Mr. Flood in 1790.

There was little danger of the success of his motion, maintained by himself with little pertinacity, and seconded neither by any Parliamentary connection, nor by any decisive popular opinion. To it therefore you thought a languid opposition from you sufficient. You reserved more active opposition for more formidable dangers, and you abandoned the motion of Mr. Flood to the declaration of Mr. Grenville, the logic of Mr. Windham, and the invective of Mr. Burke.

That more formidable danger at length arrived. A reform

‘ in the representation was brought forward by a gentleman of
 ‘ the most powerful abilities, of high consideration in the
 ‘ country, and of a character the most happily untainted by any
 ‘ of those dubious transactions of which political parties are rare-
 ‘ ly able, for any long period, to escape at least the imputation.
 ‘ Such a character was odious to apostacy. Such an enemy was
 ‘ formidable to corruption.

‘ The debate on the notice of Mr. Grey illustrated the fears
 ‘ of corrupt men, and the malignity of apostates. It was then
 ‘ that alarms which had slumbered so long over incendiary writ-
 ‘ ings were suddenly called forth by the dreadful suggestion of
 ‘ a moderate, and therefore, of a practicable reform.

‘ Nor is the reason of this difficult to discover. These incen-
 ‘ diary publications might render signal service to a corrupt go-
 ‘ vernment, by making the cause of freedom odious, and per-
 ‘ haps by provoking immatured and ill-concerted tumults, the
 ‘ suppression of which might increase the strength, and justify
 ‘ the violence of government. No such happy effects were to
 ‘ be hoped from the proposition of Mr. Grey. Impracticable
 ‘ schemes are never terrible, but that fatal proposition threaten-
 ‘ ed the overthrow of corruption itself. Then your exertions
 ‘ were indeed demanded: Then your pious zeal for the consti-
 ‘ tution was called forth.

‘ Theoretical admirers of the Constitution had indeed suppos-
 ‘ ed its excellence to consist in that trial by jury which you had
 ‘ narrowed by excise; and its salvation to depend on that Liber-
 ‘ ty of the Press which you had scared by prosecution. Such
 ‘ might have been the idle ravings of Locke or Montesquieu.
 ‘ But you well knew its practical excellence to depend on very
 ‘ different things.

‘ Already, in your imagination, that citadel of the constitu-
 ‘ tion *Queenborough*, that sanctuary of freedom *Midhurst*, totter-
 ‘ ed to their foundations. Already, even *Cornwall* itself, the ho-
 ‘ ly land of freedom, was pierced by the impious din of reform.
 ‘ Actuated by alarms so honest and so wise, for such sacred bul-
 ‘ warks of the constitution, no wonder that you magnanimously
 ‘ sacrificed your own character. No wonder that you stopped to
 ‘ rake together every clumsy sophism, and every malignant slan-
 ‘ der that the most frontless corruption had ever circulated, or the

‘ most stupid credulity believed. Nor was it even wonderful, when we consider it in this view, that you should have pronounced an elaborate, a solemn, a malignant invective, against the principles which you yourself had professed, the precise measures which you had promoted, and the very means which you had chosen for their accomplishment. There is something in such a parade of apostacy, which, in the minds of *certain persons*, may efface those vestiges of distrust and repugnance, that the recollection of a popular conduct in early life must have imprinted.

‘ The disgraceful triumph of that night will indeed long be remembered by those who were indignant spectators of it. A minister reprobating associations and condemning any mode of collecting the opinion of the people for the purpose of influencing the House of Commons.—He who commenced his career by being an Associator, and who avowedly placed all his hopes of success in the authority which general opinion was to have over the House of Commons. He who continued a minister in defiance of the House of Commons, because he supposed himself to possess the confidence of the people. He who gave the first example of legitimating and embodying the opinion of the people against the voice of their representatives. He was the minister who adopted this language. It is not, Sir, on that night to the splendor of your words, nor the music of your periods, that you owed the plaudits of the borough-mongers of Wiltshire or of Cornwall. They take no cognizance of any dexterities of sophistry or felicities of declamation; the pompous nothingness of Abercorn, and the sordid barbarity of Rolle, are more on a level with their understanding and more in unison with their taste. They applauded you for virtues like their own, for impudence in asserting falsehood, for audacity in defending corruption. Their assent was condemnation—their applause was ignominy—their disgraceful *bear hims* ought to have called to your recollection the depth of infamy into which you had at length plunged.’

Gentlemen, it gives me no pleasure to read these violent expressions; whatever opinions may be entertained with respect to Mr. Pitt’s conduct in the cause of reform, he is certainly a man of very great abilities, and a man of the most distinguished eminence and merit. I shall say nothing further with regard to him, nor

would I have been accessory to the publication of this pamphlet, which is not a little violent, neither would I read it to you, if I did not conceive it to be necessary for the defence of my client ; you will be to judge, when reading these expressions in this pamphlet, which is no libel, and which has never been prosecuted ; you will compare these flaming expressions, clothed at the same time with all that elegance and with all that strength of imagination, you will compare whether these are stronger and more effectual to raise sedition than this poor Hand Bill. It is impossible that they will admit of the smallest comparison ; I am sure you will make none between them ; I am sure you will say that if this Hand Bill is a libel, that letter to the Right Hon. Wm. Pitt upon his conduct in reform, is much more a libel ; and yet it has not been prosecuted as a libel ; and, I may venture to say, never will be prosecuted ; because it has already been circulated through the whole country, has already done a great deal of harm to Mr. Pitt's reputation ; and Mr. Pitt and the Public Prosecutor, has thought proper, however, to take no notice of a writing of this description.

Now, Gentlemen, I might read a great many more passages to you to the same effect ; but I have spoken very long, and am extremely fatigued, and indeed I despair of finding any thing stronger than I have already read ; but before I close upon this point, I must notice to you, that the Parliamentary Debates, which have been treated as matter of privilege, are as much matters of libel, when in a newspaper, as if they had never been spoken in the House of Commons ; and therefore, all the violent expressions that come up to every single word in that Hand Bill, without being prosecuted, all these are just as much libels as if no such thing had been said in the House of Commons. It is very true, that the Commons in Parliament have liberty of speech, but that liberty of speech does not entitle them to print their speeches in a public newspaper. Gentlemen, it is an adjudged case, that what is no libel when stated in a petition to Parliament, is immediately a libel, when circulated among the people. Gentlemen, it is adjudged, that where a petition, containing violent, editious, and inflammatory matter, is printed, only for the purpose of delivering to members of Parliament, who are to consider of the matter of that petition, that that petition, how

violent and seditious soever it may be, is not punishable, because it is a petition to Parliament. I say it is an adjudged case ; but the same petition, the moment it is circulated beyond the members of Parliament, it is a libel, and must stand upon its bottom : it is punishable criminally.

Gentlemen, you will remember the Archbishop of York's case—he compared some of their speeches, which he did not altogether approve of, to the harangues of a Marat or a Robespierre. It was impossible for a man to have used language more inflammatory, more directly calculated to a breach of the peace ; the mind of man cannot conceive language stronger than what his Grace was pleased to use upon that occasion, of two of the most abominable characters that ever appeared upon the face of human affairs, that are held up as a terror, that are so universally execrated, he compared these same characters with the able and respectable managers who are conducting the trial of Mr. Hastings ; this was no libel when spoken by the Archbishop, but the moment those words got into a newspaper they were regarded as a libel, and the newspaper had no protection from the known fact, that he only took it down from the Archbishop's mouth, what he had said in the House of Peers. But what followed ? Why, Gentlemen, the managers found themselves aggrieved and insulted ; they found that the House of Commons were insulted through them ; and a motion was made in Parliament ; for they had no evidence of his having made the speech in Parliament, unless the speech had been immediately noted down ; but they moved to prosecute the innocent printer of the libel, who had no more to do with the libel than any person in this room, he took it down from the Archbishop's mouth ; it cannot be supposed he had the smallest criminal intention ; and yet, this was the only way the managers had to get rid of this abominable libel that had been circulated ; why, the House refused to interfere in the matter ; it was language nearly of the same effect and tendency, as was used in newspapers every day, that they had got into this practice ; and that it was necessary for the public safety, *that they should have a liberty of saying any thing* ; and therefore, the House by a most remarkable decision indeed, refused to prosecute the printer of the Archbishop of York's speech.

Now, Gentlemen, you have seen, that a writing of the most

inflammatory nature, and containing the strongest expressions against the Minister personally, has never been prosecuted as a libel; you have seen, that the strongest expressions used against the managers of Mr. Hastings' trial was not considered as a libel; you must all know the violent expressions that are daily used, and I must here take notice of a most remarkable distinction that takes place, and which shews that this liberty of discussion must necessarily be allowed. Gentlemen, there is now an acknowledged distinction between the public and the private character of a politician. Mr. Pitt's private character is as safe as any man's in the nation; no person in the House of Commons, no member of Parliament can dare to say any thing personally to Mr. Pitt in his private capacity, it is only as a minister that he can be attacked; and the distinction is universally talked of. Mr. Pitt himself in one of his letters alludes to it, by undertaking, both as a minister and as a man, to support some measure,—I don't immediately recollect what. In short, the distinction between the man and the measure is fully established. Now, what could have given birth to this distinction? It is impossible that any circumstance whatever could have given birth to this distinction, unless it was the acknowledged doctrine that I have been illustrating, *that the subject of this country is at liberty to censure the measures of government as he pleases; no matter whether false or true*; and the distinction was fallen upon, in order to protect the private character of the Minister himself.

Now, Gentlemen, I apprehend therefore, that I have established in the first place, that this society at Dundee was assembled for a lawful purpose, no matter whether expedient or not; no matter whether dangerous or not; they were following a lawful design—the obtaining of a reform in the representation of the people in Parliament; and it is not a matter to be laughed at,—to be sure it is ludicrous, that a few mechanics in Dundee, should think of reforming the Parliament; but, they knew very well that there were a great number of other people in the country who held the same sentiments, and they knew very well that they were a small part of the great whole; and they no doubt imagined, that they would be entitled to send their own representatives to Parliament; and consequently, that the representatives so sent would have a better idea of their * * and all above, they no doubt imagined, that their own importance

would rise upon the occasion—that is no doubt a principle ingredient with reformers, among the vulgar. However, I have established that the Liberty of the Press is unbounded, so far as men canvass the measures of government. Gentlemen, I have established, that you may say what you please against government, whether true or false. I assert the proposition generally. Gentlemen, I have likewise established from practice from a strong negative argument of no such publications having been prosecuted as libellous; from that negative argument, that what language is, thought proper by an author, he may lawfully use it, and that it may be printed; and, that the warmth of the language, the nature of the language does not in itself constitute a libel. In short, that a thing of this kind is neither libellous from the matter, nor from the language; we must consider therefore, what was the purpose of it? and how far that purpose was carried into effect?

Gentlemen, I will not bring forward such a ridiculous quibble as this, that a writing, malicious—seditious in itself, and in its own nature calculated to raise sedition among the people; I don't say that a thing of this nature may be vindicated, from saying, that no sedition was raised among the people; I don't avail myself of such an argument; intention is not sufficient, unless the crime be perpetrated. For instance, it would not be relevant to accuse a man of intending to commit murder,—the question would be, Whether he had actually committed murder or not? I acknowledge the question does not rest here, because if there was an intention to produce sedition, and if the writing, which is intended to produce that effect, was obviously of that nature, I admit that the intention was carried into effect in the act of publishing the writing. But, Gentlemen, What are the circumstances here? It is not proved to you that the purposes of this society were any other than a moderate and a rational reform; it is not proved that this Hand Bill, although it complained of the very grievances which are always taken notice of by reformers; it does not appear that the Hand Bill was calculated to raise sedition. And, Gentlemen, here I must take notice, that it is by no means relevant to say, that a writing * * * * * to be sure, every writing that censures the measures of government must necessarily raise discontents in the minds of the people, no such writing ever was published with

any other intention than to shew the people what their true interest was, and that it had not been consulted by government. Gentlemen, that great and lofty privilege, that great bulwark of our constitution, as it is admitted to be on all hands, is lost for ever the moment we are restrained from exercising this boasted Liberty of the Press; the publication of sedition is punishable, and no man can be guilty of it but he must be sent to Botany Bay; but I apprehend that you will go along with me, in the idea that the writing must be calculated, not only to raise discontents in the minds of the people, and to rouse them up, in the language of the moderate and calm Hume, in order to have those grievances redressed, but it must be a writing calculated to raise sedition; and if it had not been stated in the indictment, that this paper, now under consideration, was calculated to excite acts of outrage, what outrage had appeared before? There was a petition to Parliament, was there any outrage in that? You heard it stated from almost all the witnesses, and Mealmaker, the very author of it; you heard it from every body, that it was to rouse the minds of the people, in order *again* to apply for a moderate reform; and that they were not to be discouraged by their defeat in the House of Commons, was very naturally explained, he told you that the meaning was, that though the House of Commons had not granted them their desire, they hoped, that, by perseverance, it would become a popular cause, and that the House would not then refuse to grant them their wish.

Now, Gentlemen, there is another point of view in which I will consider this question.

Gentlemen, you will attend to the averments in the Hand Bill, attend to what is there stated; there is no one thing averred, or insinuated in the Hand Bill, I will venture to say, that has not been stated by every set of reformers whatever; those who are best known to have no wish but for a moderate and a rational reform, and those who have been most exemplary for their moderation, and the legality of their conduct; the different grievances alluded to here, are short and pithy to be sure; but every one of those grievances have been stated again and again, and have been commented upon at length, and in language no less exceptionable than this. It proves this, that those people had no other notions in their heads, they had no

other object in view, they pointed at a redress of no other grievances than have been pointed out by the most moderate and constitutional reformers. Gentlemen, if this is true, if nothing in this Hand Bill but topics of this kind appear, if there is no dangerous principle contained in it, no hostile principle to the government, the evidence must irresistibly seize your minds, that this was a paper, as stated to you by one and all of the witnesses, calculated for no other purpose than to obtain a moderate and a rational reform.

Now, Gentlemen, having said so much upon the general tendency of the paper, and upon the criminality of the writer, and the publisher of it, be he whom he will, let me draw your attention next to the hand that my client had in it.

Gentlemen, I am sure you must be satisfied, that whatever hand Mr. Palmer had, either in printing or publishing this Hand Bill, that he certainly was not the author of it. Mr. Burnett told you, Gentlemen, that, notwithstanding Mealmaker's story, which was confirmed by all the rest of the witnesses, it was by no means probable that Mealmaker had been the writer of this Hand Bill; but is it not probable that Mealmaker was the author of it? Is the Public Prosecutor to be allowed to contradict his own evidence, and that confirmed in many circumstances? It is impossible, you must certainly take it as a fact, that however extraordinary you may think it for a common weaver to write such a publication, he was the original author of it; and what is more, Gentlemen, you have it fully in evidence, that he was the original author of a paper which was afterwards altered into this; he was the author of it in much stronger language than it now appears. The witnesses have been unanimous in telling you, in the first place, that Mr. Palmer condemned the publication; that he did not want that there should be any; that it might bring them into trouble,—might bring them under the notice of the Public Prosecutor; and that Mr. Palmer endeavoured to soften the expressions; and the struggle he made at the general meeting, after the paper had gone through the committee, the struggle that he made to soften the expressions; and it is rather invidious to say, that in softening the language, he meant merely to avoid a prosecution. Is it not much fairer, and much more candid to say and believe,

that Mr. Palmer had laudable motives in wishing to moderate the expressions; and Mr. Palmer might think there was nothing illegal in the publication of this Hand Bill, while at the same time he was of opinion, that it was an inexpedient thing, and did not suit the purposes of this society; and he seems to have wished to have moderated the expressions in the Hand Bill, because he did not wish to inflame the minds of the people to too great a height; at the same time, that Mr. Palmer is proved not to have considered the writing as in the smallest degree illegal.

Now, Gentlemen, I beg leave (and I am very near concluding now) after having shewn you that Mr. Palmer was not the author, that he endeavoured to soften the thing as much as possible, that he wished to avoid the publication altogether, and that he actually succeeded in making several of the expressions softer, you will attend to the character of Mr. Palmer. I am sorry to take notice of it in this view, but I think it a material circumstance in his defence, and therefore I must be excused. Gentlemen, Mr. Palmer is a person of ideas so original upon most subjects, and particularly upon one subject that is very important to us all, our religion; he is of so peculiar a way of thinking, that though, upon this occasion, he had gone to a greater degree of extravagance than would be justified in another man, I do say, that an extravagance reigns in his mind upon some subjects, I shall only read to you for this purpose.—I will not, upon second thoughts, be guilty of the indecency of reading some passages that I might touch upon in this pamphlet, in vindication of his principles as a Unitarian; some of the expressions raise ideas in one's mind of the most uncommon kind; and no one can look over the pamphlet, without seeing that Mr. Palmer is a man of a peculiar mind and disposition; I say there is a great deal more in this than you may be apt to suppose; it is impossible to consider Mr. Palmer as a rational man, with common ideas in his head; I therefore say, that this is a most material circumstance to be considered in deciding upon the case. It is no wonder that Mr. Palmer should be guilty of a piece of extravagance upon one subject, when it is proved, by the writing I have in my hand, that he has been guilty of the most immeasurable extravagance upon another subject.

Gentlemen, I am extremely sorry to have detained you so long. May God almighty lead you to give such a verdict as will absolve your own consciences * * * * * to your country.

Lord ABERCROMBIE.

Gentlemen of the Jury,—It is admitted on all hands, that the question you are now to try is of serious and of great importance. In this CASE, Gentlemen, two separate questions occur for your consideration.—The first is, Whether the writing libelled on be of a seditious tendency, or perfectly innocent? for, if you think that it is altogether innocent, then there is no occasion to enquire, who was the author of it? who the publisher of it? or by whom it was circulated? That therefore is the first question for your consideration.—Gentlemen, in judging of relevancy the Court had occasion to give their opinion upon that question. The decided opinion of the Court was, that the writing libelled on is of a seditious tendency: but, Gentlemen, neither that judgment, nor that opinion, is binding upon you; and I am happy to think, and happy to say, *that that is the case; for it is not only your right and your privilege, but it is your indispensable duty to form your own unbiassed judgment upon that writing, and to say, whether it be, or be not, a seditious writing.*

Gentlemen, you have been told at great length, that it is not a seditious writing; because in this free country it is the right of every man to canvass the public measures of ministers, and the measures of the public. Gentlemen, I agree that such is the right of every man in this free country; and I am happy to think that that is the case: but, Gentlemen, no man is entitled, under the pretext of canvassing the measures of government, to commit a crime; and the question for your consideration is, Whether a crime has or has not been committed? In this case it will be for you to consider, whether it can be called a fair and a legal discussion of the measures of government to tell the people of this country, that the portion of liberty which they once enjoyed is fast setting, we fear, in the darkness of despotism and tyranny. I say, Gentlemen, it will be for you to consider, whether that can be called a fair, and a legal discussion of the measures of government. In like manner, you will consider, how far telling the people, ‘ that they will soon be sunk in the

‘ depth of slavery, if you prevent it not by your well-timed efforts,’—whether that can be considered as such a canvassing of the measures of government as any subject of this country is entitled to. In like manner, you will consider, whether telling them ‘ Is not every new day adding a new link to our chains ? ‘ is not the executive branch daily seizing new, unprecedented, ‘ and unwarrantable powers ? has not the House of Commons ‘ (your only security from the evils of tyranny and aristocracy) ‘ joined the coalition against you.’ It is for you to weigh, for you to form your own judgment, whether these expressions, and many similar expressions that you will find in this writing, and which I will not detain you with running over ; it is for you to consider, whether that is such a fair discussion of the measures of government, or of the conduct of public men, that any subject of this country is entitled to.

Gentlemen, you are also told, that a reform is a fair and proper object. It may be so : But the question for you to consider is, How far such a writing as this can be considered as tending to obtain such a reform, or as tending, in the terms of the libel, to excite a spirit of sedition in this country ?—‘ We ‘ have done our duty, and are determined to keep our posts, ‘ ever ready to assert our just rights and privileges as men, the ‘ chief of which we account the right of universal suffrage, in ‘ the choice of those who serve in the Commons’ House of Parliament.’

Gentlemen, the right of universal suffrage is a right which the subjects of this country never enjoyed ; and were they to enjoy it, they would not long enjoy either liberty, or a free constitution. You will therefore consider, whether telling the people that they have a just right to what would unquestionably be tantamount to a total subversion of this constitution, is such a writing as any person is entitled to compose, to permit, and to publish.

Gentlemen, it was said, that it was a mistake to suppose that the Freedom of the Press consisted only in being free from a licenser. You are told, that that was altogether a mistake ; because that, in this country, men are entitled to canvass the measures of government : but I must again repeat, that, upon the most constitutional records, particularly Judge Blackstone,

there is nothing else in which it consists or can consist ; because, though every man is entitled to contravert the measures of government, if he commits a crime, he must be brought to punishment for it, if brought to trial ; and therefore every man must necessarily write, and print, and publish at his own risk. And Blackstone says, that the best and truest security of the Liberty of the Press, is the right of bringing persons to trial by a jury of their country for seditious, treasonable, or slanderous expressions. The Liberty of the Press, I must repeat, has, in my humble apprehension, been most improperly introduced into this cause ; because it has no connection with the question you are to try. The single question is, Whether this be a seditious writing or not ? and if it be, Whether the Pannel has been guilty of writing, and printing, and publishing that libel ?

Gentlemen, I shall leave this part of the case to your own unbiassed judgment ;—you will consider the whole of the evidence ;—you will judge of the whole scope and tendency of it ; and upon that you will form your opinion, whether it is an innocent publication, or whether it was not a publication tending to raise a spirit of discontent in this country ?

There were some circumstances mentioned upon the part of the Pannel which struck me : I do not know how they may affect your minds, which struck me rather as aggravations, and rather tending to evince that this writing is of a seditious tendency.—It was mentioned, that it was published in the month of July last, after the French Revolution, after the progress of that Revolution had agitated the public mind, after crimes committed, unheard-of crimes, unexampled in the history of nations ; after the misery produced by that Revolution had, as we are told, agitated the public mind in this country ; after the writings of Paine had been disseminated with the most unremitting assiduity ; after they had poisoned the minds of the lower order of people by it ; and after an alarm had been universally spread in this country :—That was the season when this writing made its appearance ;—so far you will consider ; but as far as I can judge, these circumstances rather in my mind seem still farther to evince the evil tendency of this paper.

Gentlemen, having stated these observations, I shall leave it

with you to consult your own understandings, and to say, whether this writing can be considered as innocent, or a writing of a seditious tendency.

The *second* question is, Whether the Pannel be guilty of writing, printing, publishing, and circulating that writing?— And, Gentlemen, the libel states, that the Pannel ‘has been ‘guilty of writing, or causing to write,’ &c. [*See Indictment.*] If therefore, upon considering the evidence, you should be of opinion, either that this writing was printed, or caused to be printed by the Pannel, or that he was art and part in publishing, or causing to be published; if you think he was guilty of doing it entirely, or that he was art and part in the publication, in that case you will be justified in a verdict finding him guilty. On the other hand, if, upon considering the evidence, you should be of opinion, that he neither wrote, printed, nor published, nor was art nor part in so doing, in that case it is equally clear that you will pronounce a verdict acquitting him of the charge.— Therefore, Gentlemen, it is material to observe, how far the charge is brought home to him by the evidence. I shall not, at this late hour, and after the attention you have paid to the evidence, run over it again. In general, I shall state to you what appears to me to be the substance and the import of it.— With regard to the writing of this paper, the evidence amounts to this, That Mealmaker drew the first draft, or scroll of it, which he produced at the meeting of this society; that he gave it to the Pannel to revise; that the Pannel carried it with him; and that it was again produced at another meeting afterwards; and that additions were made to it, which the witness swears he believes were made by Mr. Palmer. In this he is corroborated by various other witnesses, and, above all, by James Ellis, the friend and the visitor of Mr. Palmer, who swore pointedly to the manner in which the writing was advised by Mr. Palmer, corrected by him, and additions made to it. It was stated, in alleviation, that he was at pains at these meetings to soften the expressions. Ellis gives a very particular account of that which well merits your attention: He says, Mr. Palmer proposed to soften the expressions, although he told the meeting that, in his opinion, they were as true as the Gospel, and in his mind innocent, but that they might be taken holden of by people in

power, and for that reason he desired that the expressions should be softened. Gentlemen, various other witnesses mention the same thing, I say, that he proposed, for the sake of saving expence, that it should be printed in a newspaper : and there is another fact, that Mr. Palmer actually received from the secretary to the society the payment of the expence of printing. You have also the letter to Morrin, You have Morrin swearing to their being printed, and about 900 of them transmitted to Mr. Palmer. You will be to consider, whether that does not amount to a complete proof of the printing and publishing.

The only remaining question is the publishing ; and upon that you have the evidence of the booksellers. Their names are Leslie and Miller, who swear, that Mr. Palmer gave each of them a parcel of papers, which they distributed. This is confirmed by Smiton, who received a letter from him, and a parcel of papers. I have heard no objection to the validity of these witnesses. You will consider how far they are to be believed.

Gentlemen, With these observations I leave this case with you. There is only one further circumstance that I shall mention. Much has been said of the purity of the intention of the society : it is said, they had nothing in view but moderate reform. But, Gentlemen, you will consider, how far that is consistent either with the tenor of the address itself, or with what is sworn to by Mealmaker, who drew the first draft of it, and who swears expressly at that time he had not in his contemplation a second petition, and what was afterwards to be done would have depended upon circumstances. I much fear, that here Mealmaker is telling the truth, that how they proceeded would depend upon circumstances ; and that, had it not been for the pains that were taken in this country to put a stop to these

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Gentlemen, I shall detain you no longer. I leave this case with you, not doubting but you will return a verdict, upon that fair opinion which you will form in your unbiassed judgment.

You will return your verdict in this place, at two o'clock to-morrow.

Friday, September 3. 1793.—At two o'clock, the Jury returned the following

VERDICT.

At Perth, the 12th day of September 1793.

The Affize before-mentioned having inclosed, they made choice of James Calderwood Durham to be their Chancellor, and Andrew Whyte to be their Clerk; and having considered the criminal libel, raised and pursued at the instance of his Majesty's Advocate, for his Majesty's interest, against Thomas Fyfe Palmer, clergyman, some time residing in Dundee, and commonly designed Unitarian Minister, present prisoner in the tolbooth of Perth, Pannel; and having heard the interlocutor of relevancy pronounced thereon by the Court, evidence adduced in proof of the libel, and evidence adduced in exculpation of the Pannel; they all, in one voice, Find the Address mentioned in the libel to be a Seditious Writing, tending to inflame the minds of the people; Find, that the pannel was art and part guilty in writing the said Address, and that he is guilty of causing the said Address to be printed; and that he is guilty of distributing, and causing to be distributed, the said seditious and inflammatory writing. In witness whereof, their said Chancellor and Clerk have subscribed these presents, in their names, and by their appointment, place and date as above.

(Signed) J. A. C. DURHAM, *Chancellor.*

ANDREW WHYTE, *Clerk.*

Lord ESKGROVE.

Gentlemen of the Jury,—You have executed your important trust with the greatest attention: You have returned a verdict clear and accurate; and you are now discharged from your attendance

It only remains, at the conclusion of this trial, to do our duty, in respect of the punishment to be inflicted upon this gentleman at the bar, who stands convicted by his country. Your Lordship will have the goodness to give your opinion of what punishment ought to be inflicted.

Lord ABERCROMBIE.

My Lord,—After a fair and an important enquiry, in which every possible indulgence was shewn to the Pannel at the bar,

he stands convicted, by the unanimous voice of a Jury of his country, of a crime the most heinous, and of a most dangerous nature. And it is with peculiar reluctance that I am constrained to observe, that, deep and heinous as the crime is, in the present instance it is accompanied with circumstances of peculiar aggravation. My Lord, in the *first* place, I consider the time when this crime was committed as an aggravation of the offence, as your Lordship knows, every person now present knows with what industry, with what uncommon assiduity, a spirit of discontent, of groundless discontent, and of sedition, was attempted to be excited in this country not many months ago. My Lord, By the virtuous exertions of the country, by men of every rank and every description, all uniting in one voice of loyalty and attachment to the country and the constitution, that spirit was, in a great measure, subdued.

My Lord,—In the month of July last this country was enjoying peace and tranquillity—the alarm had ceased; and it is impossible for me not to feel, and feeling it, not to express, that the object of the Pannel in composing, in printing, in publishing this Hand Bill, as it is called, was to excite that spirit which had awakened so well-grounded an alarm in this country.

My Lords, there is another circumstance which I consider as an aggravation of the crime; and that is the situation and the character of the Pannel. My Lord, he is a clergyman, whose peculiar duty and whose province it is, to instruct citizens in their duty to God and to man, and not to attempt to excite * * * * * their minds of a most dangerous nature.—My Lord, it affords matter of much melancholy reflection to see a man of his station—of his appearance—of his knowledge—of his carriage, associating himself, making himself a member of the Society of the Friends of Liberty, as they call themselves in the town of Dundee, of a club of such men, as we saw yesterday were the president and secretary,—to see Mr. Palmer a member of that society, telling them, in express terms, that every word in that address was as true as the gospel;—nay, to tell them so, when that address contained expressions which, he himself was at pains to prove, were stronger than even those infamous expressions which it now contains. My Lord, is it to be wondered that the minds of the lower order of men, such as we saw yesterday, should be inflamed, when we see persons of Mr. Palmer's situation, and possessed of his talents, descending to such

arts?—To see such a man taking from these weavers the fruit of their honest industry, which ought to have been applied in supporting themselves and families, for the purpose of defraying the expence of printing such a paper! a paper, which a Jury of this country have properly denominated a seditious writing, tending to inflame the minds of their fellow-citizens, to excite them to tumult!—And here observe, that, unfortunate as Mr. Palmer is, he is, in one circumstance, a fortunate man; that this writing, and that all his arts, and all his * * * did not excite these deluded men to go on any farther; for, if this address of his, calculated to rouse them from their lethargy, had it produced the slightest insurrection, had it produced the slightest tumult, tending to attain the objects of this address, then, he would have been involved in the guilt of high treason, and Mr. Palmer would have been to have answered for the blood of these deluded men.

My Lord, were I not unwilling to load the unhappy man at the bar, I might add, that even the nature of the defence set up by him yesterday is an aggravation of the crime charged against him; for your Lordship knows, that that defence was rested, principally rested upon a bold and a confident vindication, which he set up in the face of his country, of that very writing, and of those very measures which he had pursued. My Lord, we were told that, by the law of this country, every subject and every citizen was entitled, under the pretence of canvassing the measures of government and the conduct of ministers, to publish, to circulate, and to paste upon the walls of every town in the country, seditious writings.—My Lord, if this were to be the case, no crime could be committed, and no punishment inflicted.

My Lord, I am unwilling to detain your Lordship longer, or load the unhappy man at the bar.—I shall therefore conclude with humbly soliciting the mildest punishment which, under all the circumstances of this case, appears to be with propriety inflicted.—And, my Lord, that is, that the Pannel at the bar, Thomas Fyfe Palmer, shall be transported for the term of seven years, to be computed from this day, in the terms and under the regulations contained in the late Act of Parliament.

Lord ESKGROVE.—

the libel or indictment found by the verdict of his country, that verdict will call upon us to pronounce this sentence that your Lordship has suggested, whatever may be * * * I shall say nothing to the aggravations of this case, which are also * * * because, I think, within the bounds of that indictment, or within the bounds of that verdict, * * * call upon your Lordship. and myself, indispensibly, to pronounce such a sentence as your Lordship has suggested. I lament, particularly, that it should

have been thought necessary, for his defence, to have advanced doctrines which were heard with astonishment, and which I consider with detestation; I mean that doctrine to which your Lordship last alluded. We live in a country, where we are told that every man is at liberty, under the pretence of censuring the mismanagement of ministers, to paste up and circulate that which tends to inflame the people, and to excite them to insurrection and rebellion, and to do it by expressions of the grossest falsehood * *

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although the consequences can be merely insignificant to the world at large, yet where a false attack is made upon the King, the Parliament, the Ministers,—a false attack, an attack charging them with falsehoods, with having committed crimes they never committed; still the law of this country is so * * * that it can be done with impunity. This is a doctrine entirely new to me;—it is not proved by the circumstance of many such instances having passed unnoticed, but it is necessary for the peace of this country that that doctrine must be declared to be false. My Lord, with regard to the punishment, I always shudder when a punishment of this nature is incumbent upon us to pronounce against a person, such as the Pannel at the bar. But, my Lord, we can make no distinction of persons, and if there was room for distinction, I hold that the more dignified the situation of the offender, the greater is his crime, and the greater ought to be his punishment; it is but little short of going the length that your Lordship has pointed out, which might have called upon us, in certain circumstances, to have pronounced the sentence of death. The punishment your Lordship has suggested is the most applicable of any, for this reason; in the *first* place, it is justified by precedent in the High Justiciary Court of this country; a sentence of the same sort, for a greater period of time, was pronounced: But what is necessary for us to consider is the consequences of this sentence that we shall award. Your Lordship, from a spirit of lenity and compassion to this unfortunate gentleman, * * * in the eyes of the world, though I regard not their eyes, but how should I reconcile it to the Judge of my conscience, to send a seditious incendiary from the country of Scotland to the country of England, to propagate the same mischievous principles. Could any man think of sending an incendiary into his own house, with a torch in his hand to set fire to it, then would he do justly to introduce him into the house of his father or his brother? Such a sentence my conscience could not submit to; therefore, to banish him, not only from Scotland, but from the British dominions, otherwise than transportation to parts beyond the seas, would be entering more into this offence than the charge against him of sedition, and the verdict of his country found against him

for printing, publishing, and circulating this seditious paper. I could not reconcile it to my mind, to my conscience, and to the public, any other sentence than that which would remove this gentleman from that land, where, in place of propagating the gospel of peace, he has endeavoured to raise up the evil spirit of dissension among us, and by sending him to foreign parts beyond the seas, we shall be taking as much care of our neighbours as of ourselves. The time is shorter than * * * *

this gentleman would have found the ways, and adopted the principles and practices more consistent with the honourable profession in which he is. At the same time, it is to be hoped, that in a much less time, all spirit of dissension among ourselves will be at an end, and the whole body of the people will, by that time, have happily united in thanking God for the true liberty they possess, and the happiness they enjoy under the happy constitution of this country.

Mr. PALMER.—My Lords, may I be permitted to speak a few words?

Lord ESKGROVE.—Yes, Mr. Palmer, you may speak.

Mr. PALMER.—My Lords, I can appeal, with conscious sincerity, to the great searcher of hearts for the good intentions and uprightness of my conduct. My life has for many years been employed in the dissemination of what I conceived to be religious and moral truths, truths which I supposed to be of the greatest importance to mankind. My friends know with what ardour I have done this, at the total sacrifice of all my worldly interests; but, during the late great political discussions that have taken place, it was entirely naturally impossible, in a man of my sanguine disposition, to remain an unconcerned bystander. I felt, as all around me felt; I caught the general influence; I thought, too, that I perceived that politics were a great branch of morals, if they did not comprise the whole of our duty to our neighbour; for, my Lords, would but our superiors, would but all the world do to one another what they, in like circumstances, would wish to be done to themselves, our petitions would have been answered, and every grievance redressed. I trust, that my politics is the cause of common justice, the cause of benevolence and of human happiness. It was under the influence, I protest, of these considerations, that I was led to enter myself into the Society of the Friends of the People. I thought, my Lords, that a parliamentary reform would enhance the happiness of millions, and establish the security of the empire. For these reasons it is, and with these views only, as God is my Judge, that I joined the society of *low weavers and mechanics*, as you called them, at the Berean meeting-house at Dundee; and for these reasons too, to gain these ends, that I assented to the publication of this Hand Bill; for, the declaration, and the test of the society, and

all their endeavours, as far as I have been able to learn, were solely confined to that one object of parliamentary reform, and a more equal representation of the people.

It is not, my Lords, the first time that I have suffered in endeavouring to benefit others; for this I have born shame, odium, reproach, and a great diminution of fortune. I hope and trust, that it is my utmost ambition, and all who know me will agree with me, that it has been the tenor of my life to endeavour to add, if possible, to the sum of human happiness. And, my Lords, if I should be called again to the like, or more severe trials; if I should be called again to suffer, in what I cannot but think the cause of men in general, the cause of human happiness; I trust, that I shall be able to bear my sufferings, not only with fortitude, but with cheerfulness—with the hope, my Lords, that my sufferings will not be wholly lost: but will, by the blessing of that great Being whom I serve, be rendered efficacious to the good of my fellow creatures.

Lord *ESK GROVE*.—It is usual, in all cases of passing sentence, for the Court to give some advice to the person upon whom sentence is passed. I only wish that you yourself may view it in the proper light, that, I think, will be your own felicity, the correcting of any errors you may have fallen into, and that all here may take example from it, (which is the great end of punishment,) and avoid those dangerous courses, dangerous to society, dangerous to themselves, which have brought you into the unfortunate situation in which you now stand. You will hear the sentence read.

The Clerk then read the following
S E N T E N C E.

The Lords *ESK GROVE* and *Abercrombie*.—In respect of the foregoing Verdict, they, in terms of an act of Parliament, passed in the 25th year of his Majesty's reign, intituled, 'An act for the more effectual transportation of felons, and other offenders, in that part of Great Britain called Scotland;' ordered and adjudged, and hereby order and adjudge, That the said Thomas Fyfe Palmer be transported beyond the Seas, to such place as his Majesty, with the advice of his Privy Council, shall declare and appoint, and that for and during the space of *Seven Years* from and after this date; with certification to him, that if, after being so transported, he shall return to, and be found at large, within any part of Great Britain, without some lawful cause, during the space of seven years, being thereof lawfully convicted, he shall suffer death, as in cases of felony, without benefit of clergy, by the law of England; for which this shall be a sufficient warrant to all concerned. And further decerned and adjudged, and hereby decern and adjudge, the said Thomas Fyfe Palmer to be carried from the bar back to the tolbooth of Perth, therein to remain till an opportunity offers of transporting him in manner above mentioned; requiring hereby the magistrates of Perth, and keepers of their tolbooth, to receive and retain him accordingly.

